

**STATE BAR OF MICHIGAN  
BOARD OF COMMISSIONERS MEETING MINUTES**

President Barnes called the meeting to order at 9:30 a.m. on Friday, June 12, 2020 via videoconference.

Commissioners present:

Danielle Mason Anderson  
David C. Anderson  
Dennis M. Barnes, President  
Joseph J. Baumann  
Robert J. Buchanan, President-Elect  
Aaron V. Burrell  
Erika L. Butler  
Hon. Clinton Canady III  
B.D. "Chris" Christenson  
Josephine A. DeLorenzo  
Hon. Shauna L. Dunning  
Thomas H. Howlett  
Lisa J. Hamameh  
Kara R. Hart-Negrich  
James W. Heath, Secretary  
Suzanne C. Larsen

James W. Low  
E. Thomas McCarthy Jr.  
Joseph P. McGill  
Valerie R. Newman  
Nicholas M. Ohanesian  
Samantha J. Orvis  
Barry R. Powers  
Daniel D. Quick, Treasurer  
Chelsea M. Rebeck  
Thomas G. Sinas  
Gregory L. Ulrich  
Dana M. Warnez, Vice President  
Erane C. Washington  
Mark A. Wisniewski  
Ryan Zemke

Commissioners Absent:

Sarah E. Kuchon

Hon. David A. Perkins

State Bar staff present:

Janet Welch, Executive Director  
Margaret Bossenbery, Executive Coordinator  
Nancy Brown, Assistant Executive Director  
Peter Cunningham, Assistant Executive Director and Director, Governmental Relations  
Michelle Erskine, Research Assistant & Event Specialist  
Kathryn Hennessey, General Counsel  
Carrie Sharlow, Administrative Assistant  
Janna Sheppard, Administrative Assistant

State Bar staff in waiting room:

Gregory Conyers, Diversity Development Program Director  
Elizabeth Couch, Director of Communications  
Katherine Gardner, UPL Counsel  
Elizabeth Goebel, Public Policy Counsel  
Kari Thrush, Lawyer Services Program Director  
Becky Weaver, Financial Services Manager

### Consent Agenda

The Board received the minutes from the April 24, 2020 Board meetings.  
The Board received the minutes from the April 14 and May 8, 2020 Executive Committee meetings.  
The Board received the recent activities of the president.  
The Board received the recent activities of the executive director.  
The Board received the FY 2020 Financial Reports through April 2020.  
The Board received the Client Protection Fund Claims.  
The Board received the Unauthorized Practice of Law Complaints.  
The Board received the 50 Year Golden Celebration certificate.

Mr. Barnes asked the Board if any items needed to be removed from the consent agenda. There were none.

A motion was offered to approve the consent agenda. The motion was seconded and approved.

## **LEADERSHIP REPORTS**

**President's and Executive Director's Report:** Dennis M. Barnes, President and Janet K. Welch, Executive Director

Mr. Barnes and Ms. Welch reported:

- there was very positive feedback on the first responder's rapid response initiatives and the timeliness and impact of the regular messages being sent out to members.
- the governor's office had provided helpful guidance concerning the emergency order addressing lawyers' performing their duties other than remotely. This came after considerable effort by the State Bar, in coordination with other affinity and local bars.
- all SBM bathrooms have been converted to hands-free fixtures, in preparation for the building's return to use.
- in person meetings in the building are on hold as long as the six foot requirement is in place.
- we are figuring out the path back into the office and how to comply with social distancing in preparing to reopen the building. We are determining which functions can best be accomplished from within the building.
- elections end on Monday, June 15 and the Board of Tellers meets on June 22 to certify the elections. The candidates will be contacted with the results shortly afterwards.
- the Apportionment/Redistricting work group meeting is scheduled for June 23.
- Tom Howlett and Joe McGill submitted their names for officer position.
- the litigation report and the role of the state bar agenda items will be discussed in a closed session at the end of the meeting.

**Representative Assembly (RA) Report:** Aaron V. Burrell, Chairperson

Mr. Burrell reported:

- the April RA meeting went well. Mr. Burrell expressed his appreciation to the SBM staff in preparing the officers.
- the Assembly approved the proceedings relative to MCR 6.1110 and MI Code of Judicial Canon 2F. As to Code of Judicial conduct he stated that after the meeting Ms. Welch solicited feedback from the minority viewpoint to prepare a Minority Report. Once the report is received it will be published.
- he contacted William Buhl, Michael Franck Award winner, and Clark Andrews, Unsung Hero Award winner, and that they were very appreciative.
- the Special Issues Committee will examine COVID-19 related issues and diversity issues.
- he is finalizing a roster for a Standing Diversity Committee for the RA.

**Young Lawyers Section (YLS) Report:** Ryan Zemke, Chairperson

Mr. Zemke reported:

- the YLS cancelled the annual summit in September
- the 2020 YLS v Board challenge will be a Zoom Trivia event. A survey will be sent to determine the date and time.

**COMMISSIONER COMMITTEES**

**Finance:** Daniel M. Quick, Chairperson

Mr. Quick reviewed the FY 2020 financial results through April 2020.

Mr. Quick stated that consideration of a fee increase has been postponed until at least the April 2021 RA meeting.

Mr. Quick stated that FY 2021 key budget assumptions will be presented at the July 24 meeting for approval and the budget presented at the August meeting.

Mr. Quick reported that the cross-committee work group continues to review non-fee revenue sources for the State Bar.

Mr. Quick stated that the Finance Committee identified expense reductions measures within the SBM, implemented some measures already, and continues its work reviewing a few more items.

Mr. Quick summarized a memo about the annual bar cards. A motion was offered to change the bar card process to opt in on the annual renewal process. The motion was seconded and approved.

**Audit:** Daniel M. Quick, Chairperson

Mr. Quick stated that by August the finance staff will meet with the auditing firm to establish testing dates and then again in late October or early November to discuss 2020 audit.

**Professional Standards:** James W. Heath, Chairperson

Mr. Heath stated there was no action to come before the Board.

**Communications and Member Services (CAMS):** Dana M. Warnez, Chairperson

**Liberty Bell Award**

Ms. Warnez stated that the State Bar of Michigan Awards Committee recommends that Tim Skubick receive the 2020 State Bar of Michigan Liberty Bell Award. A motion was offered to support that recommendation. The motion was seconded and approved.

**Public Policy:** Robert J. Buchanan, Chairperson

**Court Rule Amendments**

**ADM File No. 2015-21: Proposed Amendments of MCR 3.971, 3.972, 3.973, 3.977, 3.993, 7.202, and 7.204**

The proposed amendments of MCR 3.971, 3.972, 3.973, 3.977, 3.993, 7.202 and 7.204 would make the appeal process for child protective cases uniform (instead of having a separate process for cases involving termination of parental rights). The amendments also would make the appeal period uniform (21 days) for all child protections cases.

A motion was offered to **support** ADM File No. 2015-21 with the **amendment** that would retain the language in the current MCR 7.204 (A)(1) that allows trial courts to extend the 21-day period of appeal if during those 21 days, the trial court finds “good cause” for doing so.

The motion was seconded and approved.

**ADM File No. 2020-06: Proposed Amendments of MCR 2.403, 2.404, and 2.405**

The proposed amendments were in large part produced by a workgroup convened by the State Court Administrative Office to review and offer recommendations about case evaluation.

A motion was offered to support the proposed amendment. The motion was seconded and approved.

**ADM File No. 2019-33: Proposed Administrative Order No. 2020-X**

This proposed administrative order would establish a mandatory continuing judicial education program for the state’s justices, judges, and quasi-judicial officers.

The Board agreed to take no position.

**ADM File Nos. 2018-33/2019-20/2019-38: Proposed Amendments of MCR 6.310, 6.425, 6.428, 6.429, 6.431, 7.204, 7.205, 7.208, 7.211, 7.305, and Proposed Addition of MCR 1.112**

The proposed amendments were submitted by the State Appellate Defender Office and would address several issues. First, it would expand the prisoner mailbox rule to all legal filings (not just claims of appeal and postjudgment motions) made by a person incarcerated in prison or jail (not just prison, as under the current rule). This part of the proposal includes a new MCR 1.112, and elimination of specific prison mailbox provisions in MCR 6.310(C)(5), MCR 6.429(B)(5), MCR 6.431(A)(5), MCR 7.204(A)(2)(e), MCR 7.205(A)(3), and MCR 7.305(C)(5). One difficulty with this expansion is the fact that most jails do not have a mail log system like that in place in prisons. Second, the proposal would expand certain time frames for filing and deciding postjudgment motions in criminal cases, as reflected in the amendments of MCR 7.208 and MCR 7.211. Third, the proposal would reconfigure and expand the “Reissuance of Judgment” rule, as shown in the proposed amendments of MCR 6.428. Finally, the proposal (as shown in proposed amendments of MCR 6.425) would require a probation officer to give defendant’s attorney notice and a reasonable opportunity to attend the presentence interview, require a probation agent to not only correct

a report but certify that the correction has been made, and “ensure that no prior version of the report is used for classification, programming, or parole purposes.” This portion of the proposal also would require the Michigan Department of Corrections to provide the prosecutor, defendant, or defense lawyer with a copy of the presentence investigation report, and further require the court to provide to the parties any documents presented for consideration at sentencing, including any PSIR considered before corrections were made.

A motion was offered to

- adopt the Access to Justice Policy Committee’s position to support MCR 1.112, MCR 6.310(C)(5), MCR 6.429(B)(5), MCR 6.431(A)(5), MCR 7.204(A)(2)(e), MCR 7.205(A)(3), and MCR 7.305(C)(5).
- adopt the Access to Justice Policy Committee’s position to support with amendments new rule 1.112. The Access to Justice Committee’s proposed amendments to new rule 1.112 would limit the rule so that it would apply only upon the “trigger” of an untimely pleading having been submitted by an unrepresented individual who is incarcerated at the time of submitting the pleading, when the pleading deemed untimely would result in the individual submitting the pleading losing a right..
- support the proposed amendments to MCR 6.425, MCR 6.428, MCR 7.208, and 7.211.

The motion was seconded and approved.

**ADM File No. 2019-27: Proposed Amendments of MCR 6.310, 6.429, 6.431, 6.509, and 7.205 and Proposed Addition of MCR 6.126**

The proposed amendments of MCR 6.310, 6.429, 6.431, 6.509, and 7.205 and proposed addition of MCR 6.126 would clarify and simplify the rules regarding procedure in criminal appellate matters.

A motion was offered to

- support new rule 6.126 and proposed amendments to MCR 6.310, 6.429, 6.431, 6.509.
- support MCR 7.205 (A)(4)(b) with the amendment proposed by the Michigan Coalition of Family Law Appellate Attorneys that “a delayed application for leave to appeal may be filed within the later of 6 months from entry of the order appealed, 21 days after entry of the dismissal order, or 21 days after entry of an order denying reconsideration of the dismissal order . . . .”

The motion was seconded and approved.

**ADM File No. 2019-29: Proposed Amendments of MCR 7.212 and 7.312**

The proposed amendments of MCR 7.212 and 7.312 would allow practitioners to efficiently produce an appendix for all appellate purposes by making the appendix rule consistent within the Court of Appeals and Supreme Court.

A motion was offered to this rule change in so far as it would make the appendix rule consistent within the Court of Appeals and the Supreme Court. The Board also authorizes the Civil Procedure & Courts Committee and Appellate Practice Section to submit their comments.

The motion was seconded and approved.

**ADM File No. 2019-31: Proposed Amendment of MCR 7.216**

The proposed amendment of MCR 7.216 would enable the Court of Appeals to impose filing restrictions on a vexatious litigator, similar to the Supreme Court's rule (MCR 7.316).

A motion was offered to adopt with amendments the position of the Civil Procedure & Courts Committee to ensure symmetry between the vexatious litigator rules and definitions in the Court of Appeals and in the Supreme Court:

Rule 7.216(C)(1)(a) the appeal was taken for purposes of hindrance or delay ~~or without any reasonable basis or is not reasonably well-grounded in fact or warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law; or belief that there was a meritorious issue to be determined on appeal;~~

The motion was seconded and approved

**ADM File No. 2019-26: Proposed Amendment of MCR 7.314**

The proposed amendment of MCR 7.314 would eliminate the oral argument time period and instead provide for an amount of time established by the Court in the order granting leave to appeal.

A motion was offered to support the proposed amendment. The motion was seconded and approved.

**ADM File No. 2020-03: Proposed Administrative Order Regarding Election-Related Litigation**

This administrative order would provide requirements and procedural rules to promote the efficient and timely disposition of election-related litigation.

A motion was offered to support the proposed administrative order. The motion was seconded and approved

**Other**

**Request for Funding from the Coronavirus Relief Fund to provide Disaster Relief Legal Help for Michiganders**

A motion was offered to support the Michigan State Bar Foundation's request for CARES Act funding to support Civil Legal Aid issues created by the COVID-19 pandemic. The motion was seconded and approved

**Other**

**Comments or questions from Commissioners**

There were none.

**Comments or questions from the public**

There were none.

A motion was offered to go into a closed session to discuss litigation and the Role of the State Bar. The motion was seconded and approved

The Board went into closed session at 11:24 a.m.

The Board return to open session at 12:39 p.m.

The meeting was adjourned at 12:40 p.m.