



p 517-346-6300

September 17, 2007

p 800-968-1442

f 517-482-6248

www.michbar.org

Corbin Davis
Clerk of the Court
Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

306 Townsend Street
Michael Franck Building

Lansing, MI
48933-2012

RE: ADM File No. 2007-12 - Proposed Amendment of Rule 2.107 of the Michigan Court Rules (Provision to allow e-discovery and to clarify filing requirements)

RE: ADM File Number 2002-37 - Proposed New Rules 2E.001 *et seq.* of the Michigan Court Rules (Electronic Filing)

Dear Clerk Davis,

I am writing to provide you with additional commentary on ADM Files 2007-12 and 2002-37, based on submissions to the State Bar from our Civil Procedure and Courts committee, E-filing Task Force, and Justice Initiatives committee. All of the comments are supportive of the goals of the proposed court rule changes, and offer either technical suggestions to provide greater clarity and to address circumstances not addressed in the published proposal, or recommendations concerning implementation and administration. Due to timing, the additional commentary has not been subject to review and ratification by either the Representative Assembly or the Board of Commissioners, but is being provided to you at this time given the scheduled September 26th administrative public hearing.

The discussion of the Civil Procedure and Courts resulted in comprehensive technical suggestions concerning both files. Its proposed changes to MCR 2.107 are to be presented and considered by the Representative Assembly at its September 27, 2007 meeting, the day after the administrative public hearing. I am providing the Court with the committee's comments in advance of the Representative Assembly meeting anticipating that the Assembly will respond favorably to the committee's very thoughtful work on the proposed rule. In the event that the Representative Assembly adopts variations or additions to the committee's work, the State Bar will, of course, promptly transmit them to you.

The Justice Initiatives committee position, which I am transmitting to you in the form of a letter to the Court, requests that the Court adopt modifications to the proposed rule to accommodate special needs and pro se litigants. Beyond these requested modifications, the committee makes several suggestions concerning implementation should the proposed rule be adopted.

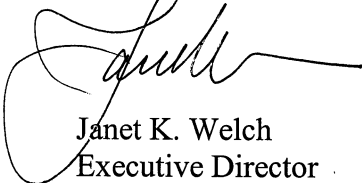
Finally, the E-Filing Task Force offers a series of observations and questions, some of which parallel the commentary of the Civil Procedure and Courts committee.

As someone who is familiar with the national models and federal experience and has been privileged to serve on the Court's Technical Advisory Group subcommittee on rules, I would like to offer a personal observation. I am pleased that the Supreme Court is actively pursuing a course of action that will result in a sensible, workable, and uniform set of rules and policies to facilitate incorporating the efficiencies and convenience of electronic technology into court procedures. A great deal of thought and expertise has already been devoted to that end, and the fact that further thoughtful modifications and observations are still forthcoming should not be discouraging. We have all become accustomed to court rules that are relatively settled and static, and are now faced with the challenge of adapting those rules to the dynamics of ever-evolving technologies. The proposed rules and the commentary on them rightly seek a balance between sufficient definition to create uniformity, and enough flexibility to accommodate change, including changes in the technological sophistication and capabilities of lawyers.

Recognizing that there is no one-time solution to this challenge, the State Bar has converted its E-Filing Task Force into a new standing committee, the Technology Committee, whose purpose is to assist the State Bar in evaluating, promoting, and helping to implement new technologies in law practices, courts, and bar associations, in order to provide greater service to lawyers and the public concerning technology issues. I anticipate that this committee will be an important resource to the Court in providing input about how current technology in the courts is meeting the needs of lawyers and the clients they serve, and what advancements are desirable. The committee will also be advising the State Bar about training needs for lawyers.

The State Bar thanks the Court once again for its consideration of these important issues.

Sincerely,



Janet K. Welch
Executive Director

cc: Anne Boomer