

**State Bar of Michigan
Representative Assembly
April 30, 2016**

SUMMARY OF PROCEEDINGS

The following is a summary of proceedings of the State Bar Representative Assembly session held Saturday, April 30, 2016, at the Lansing Community College West Campus in Lansing, Michigan.

1. Call to order by Chairperson Daniel D. Quick.
2. Clerk Joseph P. McGill declared a quorum (50 members) was present.
3. Upon a motion made and seconded, the proposed calendar was adopted as amended.
4. As provided in Rule 4.8, the Summary of Proceedings of the October 8, 2015 meeting was deemed approved.
5. Michael C. Brown, Member of the Nominating and Awards Committee, addressed the Assembly on filling vacancies for the current meeting. Upon a motion made and seconded, Shannon M. Smith (6th Circuit); Henry S. Gornbein (6th Circuit); Karen E. Groenhout (14th Circuit); Michael P. Hanrahan (17th Circuit); Maureen Burns Van Hoven (20th Circuit); Melissa J. Ransom (28th Circuit); Kathryn L. Bolinger (29th Circuit); Mwanaisha Atieno Sims (30th Circuit); Stephen J. Gobbo (30th Circuit); Yolanda M. Bennett (30th Circuit); Christopher Lee Jackson (30th Circuit); Gerrow D. Mason (31st Circuit); Hon. Michael K. Pope (32nd Circuit); Katrina Dawn Martin (33rd Circuit); Jessica L. Robison (42nd Circuit); Angela M. Cole (42nd Circuit); Nancy C. Nawrocki (44th Circuit); and Melissa Goodrich (53rd Circuit) were appointed to fill immediate vacancies within their respective Circuits.
6. Michael C. Brown, Member of the Nominating & Awards Committee, addressed the Assembly concerning the 2016 Award Nominations. Upon a motion made and seconded, the Assembly unanimously approved the 2016 Award Recipients. The Unsung Hero Award will be presented to Tessa K. Hessmiller of Grand Rapids and Jerrold E. Schrottenboer of Jackson. The Michael Franck Award will be presented to Lynn P. Chard of Ann Arbor.
7. Daniel D. Quick, Representative Assembly Chair, offered a brief chair's report.
8. Aaron V. Burrell, Chair, Special Issues Committee, addressed the Assembly on the dues structure of the State Bar of Michigan, with Janet K. Welch, Executive Director, and James C. Horsch, Director of Finance.
9. Daniel Cherrin, Chair, Special Outreach and Publicity Committee, addressed the Assembly on the committee's activities.

10. Bruce A. Courtade and Julie I. Fershtman, co-chairs of the 21st Century Practice Task Force, presented on the recently release report.
11. Karen H. Safran, Chair of the Civil Procedure & Courts Committee, addressed the Assembly for consideration of proposed amendments to Rule 8.119 of the Michigan Court Rules to provide that a protective order issued under MCR 2.302(C) governs the process for filing discovery materials under seal and make it clear that anyone can still petition the court to lift the sealing and see the documents that were filed under seal. Upon a motion made and supported, after discussion, the proposal passed 90 to 2 as follows:

Rule 8.119 Court Records and Reports; Duties of Clerks

(A) – (H) – Unchanged

(I) Sealed Records.

(1) – (3) - Unchanged

~~(4) For purposes of this rule, "court records" includes all documents and records of any nature that are filed with the clerk in connection with the action. Nothing in this rule is intended to limit the court's authority to issue protective orders pursuant to MCR 2.302(C). Materials that are subject to a motion to seal a record in whole or in part shall be held under seal pending the court's disposition of the motion.~~

(5) For purposes of this rule, "court records" includes all documents and records of any nature that are filed with the clerk in connection with the action.

~~(5)(6) A court may not seal a court order or opinion, including an order or opinion that disposes of a motion to seal the record.~~

~~(7) Whenever the court grants a motion to seal a court record, in whole or in part, the court must forward a copy of the order to the Clerk of the Supreme Court and to the State Court Administrative Office.~~

(8) Nothing in this rule is intended to limit the court's authority to issue protective orders pursuant to MCR 2.302(C) without a motion to seal or require that a protective order issued under MCR 2.302(C) be filed with the Clerk of the Supreme Court and the State Court Administrator's Office. A protective order issued under MCR 2.302(C) may authorize parties to file materials under seal in accordance with the provisions of the protective order without the necessity of filing a motion to seal under this rule.

~~(6)(9) Any person may file a motion to set aside an order that disposes of a motion to seal the record, to unseal a document filed under seal pursuant to MCR 2.302(C), or an objection to entry of a proposed order. MCR 2.119 governs the proceedings on such a motion or objection. If the court denies a motion to set aside the order or enters the order after objection is filed, the moving or objecting person may file an application for leave to appeal in the same manner as a party to the action. See MCR 8.116(D).~~

~~(7) Whenever the court grants a motion to seal a court record, in whole or in part, the court must forward a copy of the order to the Clerk of the Supreme Court and to the State Court Administrative Office.~~

12. George M. Strander, Member of the Civil Procedure & Courts Committee, addressed the Assembly for consideration of proposed amendments to Rule 5.125 of the

Michigan Court Rules to accommodate the service of minor guardianship reports. Upon a motion made and supported, after discussion, the proposal passed 81 to 6 as follows:

Rule 5.125 Interested Person Defined

(A) – (B) – Unchanged

(C) Specific Proceedings.

(1) – (22) - Unchanged

(23) The persons interested in receiving a copy of the report of a guardian of a minor, or of a legally incapacitated individual, on the condition of the ward are:

(a) the ward, if 14 years of age or older;

(b) the person who has principal care and custody of the ward, if other than the guardian;

(c) for an adult guardianship, the spouse and adult children or, if no adult children are living, the presumptive heirs of the individual;

(d) for a minor guardianship, the parents of the minor or, if neither of them is living, any grandparents and the adult presumptive heirs of the minor.

(24) – (33) - Unchanged

13. Jules B. Olsman, on behalf of the Civil Procedure & Courts Committee, addressed the Assembly for consideration of proposed amendments to Rule 7.2 of the Michigan Rules of Professional Conduct. Upon a motion made and supported, after discussion, the proposal passed 85 to 6 as follows:

Rule: 7.2 Advertising

(a) Subject to the provisions of these rules, a lawyer may advertise.

(b) A copy or recording of an advertisement or communication shall be kept for two years after its last dissemination along with a record of when and where it was used.

(c) A lawyer shall not give anything of value to a person for recommending the lawyer's services, except that a lawyer may:

(i) pay the reasonable cost of advertising or communication permitted by this rule;

(ii) participate in, and pay the usual charges of, a not-for-profit lawyer referral service or other legal service organization that satisfies the requirements of Rule 6.3(b); and

(iii) pay for a law practice in accordance with Rule 1.17.

(d) Services of a lawyer or law firm that are advertised under the heading of a phone number, web address (i.e. law.com), image, or icon shall identify the lawyers or law firm providing the services. Any web site advertising the services of a lawyer or law firm must contain the name(s) of the attorney(s) providing the services.

14. Adjournment