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ALSO IN THIS ISSUE:

- Legal updates for those invested in community associations
- Michigan Lawyers in History: Henry Woolfenden
- Alien to the common law: Why SEC v Jarkesy is of no moment to the NLRB



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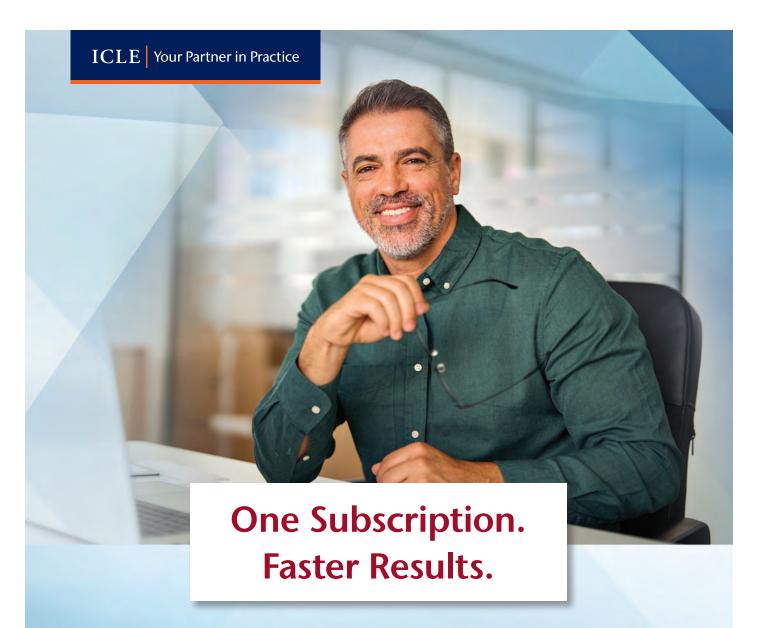
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MICHIGAN

BARJOURNAL

DECEMBER 2025 | VOL. 104 | NO. 11

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Hon. (ret) Donald E. Shelton, JD, Phd

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Michigan Lawyers in History:
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MICHIGAN

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MONEY JUDGMENT INTEREST RATE

MCL 600.6013 governs how to calculate the interest on a money judgment in a Michigan state court. Interest is calculated at six-month intervals in January and July of each year from when the complaint was filed as is compounded annually.

For a complaint filed after Dec. 31, 1986, the rate as of January 1, 2025, is 4.083%. This rate includes the statutory 1%.

A different rule applies for a complaint filed after June 30, 2002, that is based on a written instrument with its own specific interest rate. The rate is the lesser of:

13% per year, compounded annually; or

The specified rate, if it is fixed — or if it is variable, the variable rate when the complaint was filed if that rate was legal.

For past rates, see https://www.michigan.gov/taxes/interest-rates-for-money-judgments.

As the application of MCL 600.6013 varies depending on the circumstances, you should review the statute carefully.

RECENTLY RELEASED

MICHIGAN LAND TITLE STANDARDS

6TH EDITION | 8TH SUPPLEMENT (2021)

The Eighth Supplement (2021) to the 6th Edition of the Michigan Land Title Standards prepared and published by the Land Title Standards Committee of the Real Property Law Section is now available for purchase.

Still need the 6th edition of the Michigan Land Title Standards and the previous supplements? They are also available for purchase.

DUTY TO REPORT AN ATTORNEY'S CRIMINAL CONVICTION

All Michigan attorneys are reminded of the reporting requirements of MCR.9120(A) when a lawyer is convicted of a crime

WHAT TO REPORT:

A lawyer's conviction of any crime, including misdemeanors. A conviction occurs upon the return of a verdict of guilty or upon the acceptance of a plea of guilty or no contest.

WHO MUST REPORT:

Notice must be given by all of the following:

- 1. The lawyer who was convicted;
- 2. The defense attorney who represented the lawyer; and
- 3. The prosecutor or other authority

WHEN TO REPORT:

Notice must be given by the lawyer, defense attorney, and prosecutor within 14 days after the conviction.

WHERE TO REPORT:

Written notice of a lawyer's conviction must be given to **both**:

Grievance Administrator

Attorney Grievance Commission PNC Center 755 W. Big Beaver Road, Suite 2100 Troy, MI 48084

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333 W. Fort St., Suite 1700 Detroit, MI 48226



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JANUARY 23, 2026 MARCH 6, 2026 (IF NEEDED) APRIL 24, 2026 JUNE 12, 2026 JULY 24, 2026 SEPTEMBER 18, 2026



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This list of active attorneys who are suspended for nonpayment of their State Bar of Michigan 2023-2024 dues is published on the State Bar's website at michbar.org/generalinfo/pdfs/suspension.pdf.

In accordance with Rule 4 of the Supreme Court's Rules Concerning the State Bar of Michigan, these attorneys are suspended from active membership effective Feb. 15, 2025, and are ineligible to practice law in the state.

For the most current status of each attorney, see our member directory at directory.michbar.org.

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April 25, 2026 September 18, 2026

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IN MEMORIAM

HON. HOLLY T. BIRD, P68122, of Traverse City, died April 2, 2025. She was born in 1969 and was admitted to the Bar in 2005.

FREDERICK W. BLEAKLEY, P38860, of Muskegon, died November 9, 2025. He was born in 1960, graduated from Thomas M. Cooley Law School, and was admitted to the Bar in 1986.

NICHOLAS L. BOZEN, P11091, of Lansing, died August 18, 2025. He was born in 1947, graduated from University of Michigan Law School, and was admitted to the Bar in 1973.

MELINDA S. CAMERON, P36048, of Livonia, died August 8, 2025. She was born in 1957, graduated from Wayne State University Law School, and was admitted to the Bar in 1983.

HON. MICHAEL H. CHERRY, P25111, of Coldwater, died October 18, 2025. He was born in 1943 and was admitted to the Bar in 1975.

DAVID J. CLARK, P34659, of Traverse City, died October 5, 2025. He was born in 1954, graduated from Thomas M. Cooley Law School, and was admitted to the Bar in 1982.

DAVID W. CROOKS, P28232, of Naples, Fla., died July 22, 2025. He was born in 1948 and was admitted to the Bar in 1977.

ALVIS PHILLIP EASTER, P27168, of El Granada, Calif., died October 9, 2025. He was born in 1949, graduated from De-

troit College of Law, and was admitted to the Bar in 1977.

HON. WILLIAM T. ERVIN, P30654, of Mount Pleasant, died October 12, 2025. He was born in 1947, graduated from Detroit College of Law, and was admitted to the Bar in 1979.

GARRY W. GODDARD, P35142, of Lansing, died October 3, 2025. He was born in 1943, graduated from Thomas M. Cooley Law School, and was admitted to the Bar in 1983.

SCOTT M. GRAMMER, P72713, of Lansing, died May 4, 2025. He was born in 1967, graduated from Thomas M. Cooley Law School, and was admitted to the Bar in 2009.

TODD W. GRANT, P45531, of Ann Arbor, died September 21, 2025. He was born in 1951, graduated from University of Michigan Law School, and was admitted to the Bar in 1991.

GLEN N. LENHOFF, P32610, of Grand Blanc, died October 30, 2025. He was born in 1949, graduated from Wayne State University Law School, and was admitted to the Bar in 1981.

MICHALE D. LIEBERMAN, P38529, of Farmington Hills, died October 20, 2025. He was born in 1960, graduated from Detroit College of Law, and was admitted to the Bar in 1985.

JONATHAN E. MAIRE, P16999, of Lansing, died June 12, 2025. He was born in 1936 and was admitted to the Bar in 1964.

LANCE E. MERMELL, P17636, of Bingham Farms, died October 25, 2025. He was born in 1943, graduated from Detroit College of Law, and was admitted to the Bar in 1970.

HOWARD W. PATCH, P18688, of Jackson, died September 28, 2025. He was born in 1938, graduated from Wayne State University Law School, and was admitted to the Bar in 1964.

RYAN J. RIEHL, P67598, of Ann Arbor, died February 1, 2025. He was born in 1978, graduated from Wayne State University Law School, and was admitted to the Bar in 2004.

JOHN A. SMIETANKA, P20610, of Grand-ville, died October 25, 2025. He was born in 1941 and was admitted to the Bar in 1969.

GODFREY VANDER WERFF, P21734, of Lowell, died February 17, 2025. He was born in 1930 and was admitted to the Bar in 1957.

TOMMIE WAUGH, P32531, of White Lake, died October 5, 2025. He was born in 1950, graduated from Detroit College of Law, and was admitted to the Bar in 1981.

In Memoriam information is published as soon as possible after it is received. To notify us of the passing of a loved one or colleague, please email barjournal@michbar.org.

BARJOURNAL

NEWS & MOVES

ARRIVALS & PROMOTIONS

Ashley Fernandez Cook has joined the Troy office of Butzel as an associate.

Michelle LeBeau has joined the Detroit office of Fisher Phillips as a partner.

Aidan A. Maraachli and **Jennifer E. Black** have joined Bodman PLC.

LEADERSHIP

Sandra D. Glazier, with Sandra D. Glazier PC, was inducted into the NAEPC Estate Planning Hall of Fame and as a recipient of the Accredited Estate Planner® (Distinguished) designation for 2025.

Courtney L. Nichols a partner with Plunkett Cooney was elected to the board of directors of ALFA International.

PRESENTATIONS, PUBLICATIONS & EVENTS

The **Ingham County Bar Association** will host its Annual Dinner on Wednesday, November 12, 2025, at the Crowne Plaza Lansing West at 6 p.m.

Have a milestone to announce? Send your information to News & Moves at newsandmoves@ michbar.org.

PUBLIC POLICY REPORT

HB 4840 (Lightner) **Courts: business court;** Courts: business court; types of cases heard by the business court; revise. Amends sec. 8031 of 1961 PA 236 (MCL 600.8031). **POSITION: Support.**

SB 330 (McMorrow) **Courts: juries;** Courts: juries; exemption from jury service; expand. Amends sec. 1307a of 1961 PA 236 (MCL 600.1307a). **POSITION: Support.**

IN THE HALL OF JUSTICE

Proposed Amendments of Rules 1.109, 2.104, 2.107, 2.119, 3.203, and 5.105 of the Michigan Court Rules (ADM File No. 2020-08) – Court Records Defined; Document Defined; Filing Standards; Signatures; Electronic Filing and Service; Access; Process; Proof of Service; Service and Filing of Pleadings and Other Documents; Motion Practice; Service of Notice and Court Documents in Domestic Relations Cases; Manner and Method of Service (See Michigan Bar Journal October 2025, p 53).

STATUS: Comment Period Expires 01/01/26; Public Hearing to be Scheduled.

POSITION: Support ADM File No. 2020-08 with two amendments: (1) while parties repre-

sented by counsel should be required to opt out of electronic service, parties proceeding pro se should be required to opt in to electronic service; and (2) subrule (C)(5)(c) should be amended to strike "24 hours" and insert "72 hours."

Proposed Amendments of Rules 3.942 and 3.972 of the Michigan Court Rules (ADM File No. 2023-23) – Trial; Trial (See Michigan Bar Journal October 2025, p 57).

STATUS: Comment Period Expires 01/01/26; Public Hearing to be Scheduled.

POSITION: Support.

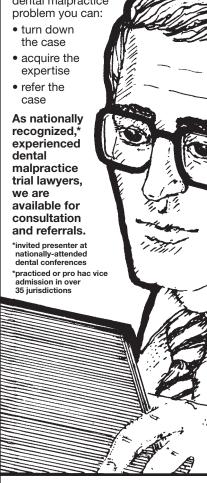
Proposed Amendment of Rule 7.215 of the Michigan Court Rules (ADM File No. 2023-39)

- Opinions, Orders, Judgments, and Final Process for Court of Appeals (See *Michigan Bar Journal* October 2025, p 58).

STATUS: Comment Period Expires 01/01/26; Public Hearing to be Scheduled.

POSITION: Support ADM File No. 2023-39 with an amendment that MCR 7.215(C)(1) should read: "If a party cites an unpublished opinion, the party must provide the docket number and date of decision as part of the citation."





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FROM THE PRESIDENT

Doing my part to change one person's world

Have you seen the reel that shows a man ironing, turning off the iron, unplugging the iron, returning three times to see the iron unplugged, touching the cord and plug to confirm it is unplugged, and taking a picture of the unplugged cord? It's funny ... but not really.

This is a coping mechanism for anxiety. Admittedly, I have done all those things — except taking the photo, but only because I hadn't thought of documenting it for later. Without this coping mechanism, and sometimes with it, the thought of my house, my neighbor's house and the entire neighborhood on fire can haunt me all day. On good days, I can control my thoughts. On bad days, I can't stop the flood of what-ifs. The reel is relatable for too many of us.

Lawyers are not immune to the struggles of depression, anxiety and substance use issues. In fact, the legal profession has increasingly become synonymous with chronic stress, burnout, mental health issues, and substance use challenges. Lawyers are expected to be sharp, resilient, and available at all hours — solving complex problems under pressure. Behind our impressive titles and legal victories, a quiet reality looms over the profession: many of us are running on empty.

The American Bar Association's Commission on Lawyer Assistance Programs and the Hazelden Betty Ford Foundation's 2016 study of nearly 13,000 practicing attorneys revealed high rates of mental health and substance use concerns:

- 28 percent of lawyers suffered from depression.
- 19 percent of lawyers had anxiety.

 11.5 percent of lawyers had suicidal thoughts at some point during their career.

The greatest rates of depression, anxiety, and problematic drinking were among attorneys in their first 10 years of practice.² A 2021 survey of law student well-being³ reported additional concerning statistics, all of which had increased since a similar 2014 survey:

- 69 percent of law students needed emotional or mental health help in the past year33 percent of law students had been diagnosed with depression
- 40 percent of law students report being diagnosed with anxiety
- 11 percent of law students report having suicidal thoughts in the last year

The ABA helped launch a follow-up well-being survey this year and we are expecting the results of that survey early next year. (Thank you to all the Michigan attorneys who participated!)

The numbers tell us what we already know: We need help.

We are not taking care of ourselves, and it is literally killing us! The fact is that attorneys are six times more likely to complete suicide than the general public.⁴ Our profession and the responsibility we bear is taxing, often relentless. The toll it takes on our mental health, our families, and our well-being is real. The truth is: We cannot effectively serve others, if we do not first care for ourselves.

It is clear we must address this crisis.

The views expressed in "From the President," as well as other expressions of opinions published in the Bar Journal from time to time, do not necessarily state or reflect the official position of the State Bar of Michigan, nor does their publication constitute an endorsement of the views expressed. They are the opinions of the authors and are intended not to end discussion but to stimulate thought about significant issues affecting the legal profession, the making of laws, and the adjudication of disputes.

MICHIGAN AT THE FOREFRONT

Recognizing the scope of the problem, the Michigan Supreme and the State Bar of Michigan jointly launched the Michigan Task Force on Well-Being in the Law in May 2022 to address the well-being of legal professionals and law students. The Task Force was comprised of 35 stakeholders with a wide range of perspectives, including representation from the Michigan Supreme Court, the State Bar of Michigan, the judiciary, lawyers, law schools/students, court administrators, regulators, tribal courts, and mental health professionals.

"Michigan's legal community must understand that well-being is an essential component of competence and must do its part to foster an environment that encourages each member of the legal profession to strive for greater mental, physical, and emotional health."

- Michigan's Task Force on Well-Being in the Law

After months of this important work, the Task Force issued its Report and Recommendation in August 2023, which is available online on the court's website. There are 21 recommendations in the report directed at law students, practitioners and judicial officers. The first recommendation was to establish a commission on well-being in the law, which the Michigan Supreme Court did one month later with Administrative Order No. 2023-1: Creation of the Commission on Well-Being in the Law (WBIL).8

Under the guidance of co-chairs Chief Justice Megan Cavanagh (now Justice Kyra Bolden) and Molly Ranns, director of the State Bar of Michigan's Lawyer and Judges Assistance Program, the Commission was created to lead the efforts to institute change by implementing the Task Force's remaining recommendations. (Full disclosure: I also serve on the commission.)

The commission's purpose is to "build upon the good work already accomplished by the Task Force and continue the forward momentum to change the climate of the legal culture by promoting well-being within the legal profession. The commission will foster

an environment that encourages members of the legal profession, law students, and court staff to strive for greater mental, physical, and emotional health."9

The commission created three workgroups:

- Incentivizing Well-Being: To encourage members of legal community to prioritize well-being and self-care. Rewarding and celebrating those who are embracing the opportunity to improve.
- Prevention and Promotion: To foster a supportive and resilient legal community by providing comprehensive education and resources to mitigate the stressors associated with the legal profession. Through targeted initiatives, we aim to:
 - Educate law students, practitioners, and judges on the common challenges faced throughout their legal journeys.
 - Identify and address pressure points and susceptible intervals that can contribute to stress and burnout.
 - Promote healthy coping skills and strategies to enhance well-being and resilience.
 - Normalize the experience of stress within the legal community, fostering a culture of understanding and support.
 - Create a more sustainable and fulfilling legal profession by empowering individuals with knowledge and tools.
- Well-Being Programming: To promote and support well-being in the legal profession by providing access to comprehensive education, counseling, and training programs that empower legal professionals to prioritize their mental, emotional, and physical health. We aim to create lasting buy-in through open dialogue, destigmatizing wellness challenges, and increasing accessibility to resources. By integrating well-being initiatives into existing professional development programs, we foster a sustainable culture of holistic well-being that enhances both personal fulfillment and professional excellence within the legal community.

Fortunately, our state is at the forefront of change. In addition to the State Bar of Michigan, through its collaborations and through its Lawyers and Judges Assistance Program, many local and affinity bar associations, and law firms are beginning to prioritize lawyer

HELP IS **AVAILABLE**

The State Bar of Michigan's Lawyer & Judges Assistance program offers a variety of help. Here's a look at some of what LJAP has to offer. All services are confidential and regulated by HIPAA.

- Free consultations for legal professionals and their families
- Short-term, low cost counseling for law students
- · Referrals to properly trained, credentialed and effective providers
- Virtual support groups throughout the year
- · Clinical assessments and monitoring
- Regular wellness events
- Well-being presentations for legal professionals, students, State
 Bar sections, local and affinity bars, regulators, law firms, and courts

For help, contact the LJAP Helpline at 1-800-996-5522 or ContactLJAP@michbar.org

TASKFORCE **RECOMMENDATIONS**

The Michigan Supreme Court and the State Bar of Michigan launched the Michigan Task Force on Well-Being in the Law in May 2022 to address the well-being of legal professionals and law students. The task force issued 21 recommendations that remain a guide for ongoing well-being work.

RECOMMENDATION #1

Establish a Commission on Well-Being in the Law (Done in AO 2023-1)

RECOMMENDATION #2

Reassure law students that seeking mental health treatment will not create obstacles to bar admission and law practice

RECOMMENDATION #3

Encourage and incentivize law schools that are not yet doing so to follow the American Bar Association (ABA) standards in Section 303 and 314

RECOMMENDATION #4

Promote law student success and retention by offering more robust, long-term, and sustainable mental health resources to students.

RECOMMENDATION #5

Develop a timeline for delivering well-being messages to law students throughout law school

RECOMMENDATION #6

Normalize the ability to make mistakes as part of the learning process

RECOMMENDATION #7

More frequently utilize LJAP resources during the Attorney Grievance Commission intake screening process

RECOMMENDATION #8

Provide ongoing training to the Attorney Discipline Board and Attorney Grievance Commission staff on lawyer wellbeing and mental health

RECOMMENDATION #9

Include well-being training at the State Bar of Michigan's "Tips and Tools" for a Successful Practice seminar

RECOMMENDATION #10

Formation of well-being committees for all local and affinity bars and legal employers

RECOMMENDATION #11

De-emphasize alcohol at social events and legal functions

well-being as part of their professional development and organizational culture. Flexible working policies, mental health resources, and mindfulness or resilience programs are becoming more common.

WHAT CAN WE DO?

- "As one person, I cannot change the world, but I can change the world of one person."
- Paul Shane Spear

Change is long overdue in the legal profession. We need to get out of our own way and acknowledge that mental health is not merely an issue affecting the weak — it affects us all. We must prioritize mental health, work-life balance, and mentorship, especially for young and diverse lawyers entering the field. To do this, we must individually and collectively work to eliminate the stigma associated with mental health, recognize and learn how to respond to help-seeking behaviors, and redefine what success looks like.

Eliminate the Stigma

I wrote earlier about developing coping mechanisms when anxiety strikes, such as taking that photo of the unplugged iron. I speak from experience. I suffered through anxiety for many years ... alone. I was terrified that seeking the help I desperately needed and wanted would derail my future — whatever it might be. Instead, I developed coping mechanisms.

It started simple: First, I would try to identify the worst-case scenario and then respond to it. Using the iron example, the worst that could happen if it was left on is that my house could burn down. Then I would find comfort in knowing that is why I have insurance. (I didn't have dogs at the time.) While this coping mechanism helped, I also knew I needed help. Unfortunately, it took many years for me to find the courage to seek help and even after I did, I still feared for years that it would derail my future. I know and understand today that getting help made me a better, stronger attorney, and in fact helped me build my career. I only wish I had come to that realization sooner.

I suffered in silence for no reason.

Some may condemn my decision to share my struggles, but if sharing my struggles encourages just one person reading this article to seek the help that they want and need, without fear of negative implications, then I've done my part.

Recognize Help-Seeking Behaviors and Learn How to Respond

We are all struggling to some degree — but often are afraid to talk about it. You can help your friend, colleague or bench-mate by being able to identify when someone is reaching out for help, either directly or indirectly, and responding in a way that supports their needs.

Direct indicators include expressing one's feelings of being overwhelmed, stressed, depressed, anxious or needing help. A few indirect indicators of help-seeking behavior include: shifts in personality, such as excessive drinking, withdrawing, or engaging in risky behavior; changes in routine, such as sleeping more or less, neglecting personal hygiene, or ceasing gym attendance; negative self-talk; and seeking reassurance or support more frequently.

When you recognize help-seeking behaviors, be ready and willing to listen, offer empathy, avoid judging or shaming, normalize seeking help, offer resources such as therapist recommendations, and be sure to follow up — a quick text telling the person that you're thinking about them can go a long way.

Recognizing these signs is vital because often people won't openly ask for help unless they feel safe. Being attentive and sensitive to the subtle signs of distress can provide the encouragement they need to take the next step toward healing.

Redefining what Success Looks Like

Sustainable transformation requires leadership commitment. Leaders and educators must normalize discussions about mental health, model healthy behaviors, and reconsider performance metrics that reward excessive hours over quality of work. For generations, success in the legal profession has been measured by billable hours, law firm rankings, and courtroom victories. Leaders must emphasis that true success must also include sustainability — the ability to thrive, not just survive, in one's career. Law schools also bear responsibility for embedding well-being and resilience into curricula as core professional skills.

Real progress requires more than policies. It needs a mindset shift. Senior partners and firm leaders play a crucial role in setting the tone. When leaders openly discuss mental health, take time off without guilt, and encourage balance, they give others permission to do the same. Well-being isn't just a personal issue; it's a leadership responsibility.

Well-being doesn't mean working less or caring less. It means working smarter, with purpose and perspective. It means acknowledging that lawyers are human first, and that a healthy mind is a sharper, fairer, and more effective one.

CONCLUSION

A thriving legal community depends on professionals who are engaged, healthy, and fulfilled. We cannot effectively serve others, if we do not first care for ourselves — with the same dedication, integrity, and care we give our clients.

I close by asking all my colleagues to please do your part to help end the stigma around mental health and to speak openly about the importance of mental health, work-life balance, and wellness in our profession.

ENDNOTES

- 1. Krill, Johnson, & Albert, The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys, 10 J Addiction Med 46 (2016) https://journaladdictionmedicine/fulltext/2016/02000/the_prevalence_of_substance_use_and_other_mental.8.aspx (all websites accessed Nov 25, 2025).
- 2. Id.
- 3. Jaffe, Bender, & Organ, It's Okay to Not Be Okay: The 2021 Survey of Law Student Well-Being, 60 U. Louisville L. Rev. 441 (2022)
- 4. Administrative Order No. 2023-1 (2023) .
- 5. Report and Recommendations, Michigan Task Force on Well-Being in the Law (Aug 2023) https://www.courts.michigan.gov/4a46c9/siteassets/committees,-boards-special-initiatves/lawyer-well-being/wbtf-final-report-pdf.
- 6. *Id.* at p 9
- 7. Id.
- 8. Administrative Order No 2023-1, supra n 4.
- 9. Report and Recommendations, supra n 5 at p 9.

RECOMMENDATIONS CONTINUED

RECOMMENDATION #12

Amend Michigan Rule of Professional Conduct 1.1 (Competence) to include lawyer well-being as a function of competence

RECOMMENDATION #13

Implement incentives, such as recognitions and awards for law firms, lawyers, and non-lawyers who demonstrate their commitment to well-being

RECOMMENDATION #14

Solicit and include a personal testimonial of recovery following the discipline section of Michigan Bar Journal

RECOMMENDATION #15

Offer regular wellness seminars to all members of the State Bar

RECOMMENDATION #16

Create and utilize a tool to measure the impact of well-being initiatives on lawyer well-being

RECOMMENDATION #17

Communicate that well-being is a priority for the judiciary to reduce the stigma of mental health and substance use problems

RECOMMENDATION #18

Develop policies focusing on prevention and early intervention for judicial well-being

RECOMMENDATION #19

Conduct judicial well-being surveys

RECOMMENDATION #20

Provide well-being programming for judges and staff

RECOMMENDATION #21

Monitoring for struggling judges and establish a partnership between the Judicial Tenure Commission and the Lawyers and Judges Assistance Program

LAWYERS & JUDGES ASSISTANCE

MEETING DIRECTORY

The following list reflects the latest information about lawyers and judges AA and NA meetings. Meetings marked with "*" have been designated for lawyers, judges, and law students only. All other meetings are attended primarily by lawyers, judges, and law students, but also are attended by others seeking recovery. In addition, we have listed "Other Meetings," which others in recovery have recommended as being good meetings for those in the legal profession.

For questions about any of the meetings listed, please contact the Lawyers and Judges Assistance Program at 800.996.5522 or iclark@michbar.org.

PLEASE DO NOT HESITATE TO CONTACT LJAP DIRECTLY WITH QUESTIONS PERTAINING TO VIRTUAL 12-STEP MEETINGS. FOR MEETING LOGIN INFORMATION, CONTACT LJAP VOLUNTEERS ARVIN P. AT 248.310.6360 OR MIKE M. AT 517.281.9507.

ALCOHOLICS ANONYMOUS & OTHER SUPPORT GROUPS

Bloomfield Hills

WEDNESDAY 6 PM*

Virtual meeting
Kirk in the Hills Presbyterian Church
1340 W. Long Lake Rd.
1/2 mile west of Telegraph
(This is both an AA and NA meeting.)

Detroit

MONDAY 7 PM*

Lawyers and Judges AA St. Paul of the Cross 23333 Schoolcraft Rd. Just east of I-96 and Telegraph (This is both an AA and NA meeting.)

East Lansing

WEDNESDAY 8 PM

Sense of Humor AA Meeting Michigan State University Union 49 Abbott Rd. Lake Michigan Room

Houghton Lake

SECOND SATURDAY OF THE MONTH 1 PM

Lawyers and Judges AA Meeting Houghton Lake Alano Club 2410 N. Markey Rd. Contact Scott at 989.246.1200 with questions.

Royal Oak

TÚESDAY 7 PM*

Virtual meeting Lawyers and Judges AA St. John's Episcopal Church 26998 Woodward Ave.

(This is both an AA and NA meeting.)

Stevensville

THURSDAY 4 PM*

Al-Anon of Berrien County 4162 Red Arrow Highway Virtual

MONDAY 8 PM

Join using this link https://ilaa.org/meetings-and-events/

Virtua

TUESDAY 8 PM

WOMEN ONLY

Join using this link https://ilaa.org/meetings-and-events/

Virtual

THURSDAY 7 PM*

Contact Mike M. at 517.281.9507 for information.

Virtua

THURSDAY 7:30 PM

Zoom

Contact Arvin P. at 248.310.6360 for login information

Virtual

SUNDAY 7 PM*

Virtual meeting

Contact Mike M. at 517.281.9507 for information.

GAMBLERS ANONYMOUS

For a list of meetings, visit gamblersanonymous.org/mtgdirMI.html.

Please note that these meetings are not specifically for lawyers and judges.

OTHER MEETINGS

Detroit

TUESDAY 6 PM

St. Aloysius Church Office 1232 Washington Blvd. Detroit

FRIDAY 12 PM

Detroit Metropolitan Bar Association 645 Griswold 3550 Penobscot Bldg., 13th Floor Smart Detroit Global Board Room 2

Farmington Hills

TUESDAY 7 AM

Antioch Lutheran Church 33360 W. 13 Mile Corner of 13 Mile and Farmington Rd., use back entrance, basement

Monroe

TUESDAY 12:05 PM

Professionals in Recovery
Human Potential Center
22 W. 2nd St.
Closed meeting; restricted to professionals who are

Rochester

FRIDAY 8 PM

Rochester Presbyterian Church 1385 S. Adams South of Avon Rd. Closed meeting; men's group

addicted to drugs and/or alcohol

Troy

FRIDAY 6 PM

The Business & Professional (STAG) Closed Meeting of Narcotics Anonymous Pilgrim Congregational Church 3061 N. Adams 2 blocks north of Big Beaver (16 Mile Rd.)

Virtual

SUNDAY 7 PM*

WOMEN ONLY

Contact Lynn C. at 269.396.7056 for login information.

OF INTEREST

Justice needs your response How will you answer?

BY CRAIG LUBBEN

As president of the Michigan State Bar Foundation, I have the privilege of witnessing the profound impact of some of the legal profession's most unsung heroes: legal aid attorneys.

While most of the legal community, including me, may not regularly encounter veterans navigating complex benefits claims, survivors of domestic violence seeking safety, or families on the brink of losing their homes, legal aid attorneys do — every single day. They are the steady hands guiding clients through some of the most vulnerable moments of their lives, ensuring that legal challenges do not become life-altering crises. Their work is not only compassionate — it is essential to preserving livelihoods, dignity, and the rule of law for those who are not equipped to face the system alone.

Today, legal aid organizations across Michigan are facing the threat of federal funding cuts. If those cuts come to fruition, our low-income neighbors in Michigan will bear the burden unless we as Michigan lawyers step in to fill the gap. When access to justice is denied, the rule of law begins to erode.

As members of the legal profession, we need to respond. Our oath — to never reject the cause of the defenseless or oppressed — must be more than words. This is a call to action.

How can you respond? Support the Access to Justice Campaign.

The ATJ Campaign is a statewide, collaborative fundraising effort administered by the Michigan State Bar Foundation (MSBF) and

operated in partnership with the State Bar of Michigan (SBM), to raise money to support the 14 regional and statewide civil legal aid programs across the state. One hundred percent of donations are distributed to support civil legal aid.

In 2024 alone, legal aid programs supported through the Campaign helped 103,150 people, including 40,431 children. This Michigan legal community made this possible. Last year, the Campaign raised approximately \$1.23 million and increased per-attorney giving.

The need is urgent — and your action is needed now to ensure that:

- Families facing wrongful evictions remain in their homes
- Survivors of domestic violence are not forced to live in fear
- Veterans and elders retain access to critical benefits
- Barriers to employment are removed

Today, I urge you to give the Access to Justice campaign. I urge you to protect the rule of law and stand with the most vulnerable Michiganders. Let us demonstrate that justice is a promise that Michigan's legal community is committed to keeping.



Craig Lubben, MSBF president, is a member at Miller Johnson in Kalamazoo.





New rules for better science in forensic science, and now Al comes along

BY HON. (RET) DONALD E. SHELTON, JD, PHD

In April of 2021, Governor Whitmer created a task force to recommend improvements to the use of forensic science. Her executive order said:

Wrongful convictions deprive innocent people of their freedom, deny closure to victims of crime, and undermine faith in the criminal justice system. Studies have demonstrated that the misapplication of forensic science is the second most common contributing factor in wrongful convictions in the United States. . . . It is vital that the State of Michigan

and its courts rigorously adhere to best practices for the use of forensic science within the criminal justice system.¹

The task force was co-chaired by the chief justice of the Michigan Supreme Court and the director of the Michigan State Police. After a year and a half of study, the task force delivered its report to the governor in December of 2022.²

The task force made a series of recommendations to both the Supreme Court and the legislature to improve the quality of forensic science in Michigan. The legislative recommendations include formation of a statewide forensic science commission, accreditation and registration of agencies and experts, steps to improve the independence of laboratory personnel, and others.³ Recommendations to the Supreme Court focused on forensic science education for lawyers and judges and changes to Court Rules and the Rules of Evidence.⁴ One of the most important of those Supreme Court recommendations was the amendment of MRE 702 to strengthen the requirement for judges to conduct meaningful hearings on the admissibility of forensic science evidence.

The governor is right about the relationship of faulty forensic science to wrongful convictions of the innocent. Nationally, 25% of wrongful convictions are based on false or faulty forensic science evidence, and 32% of sexual assault wrongful convictions are based on bad forensic science evidence.⁵ In 2021, there were 11 new exonerations in Michigan, and eight of them involved false or misleading forensic science evidence.⁶ In 2022, Michigan was second in the nation with 16 exonerations, 10 of those wrongful convictions involved false or misleading forensic science evidence, and nine of those were murder convictions.⁷ It is important to remember that wrongful convictions not only incarcerate innocent persons but also mean that the actual perpetrators of the crime remain free to possibly commit more crimes.

How and why is such faulty evidence admitted in criminal trials? A basic premise of our trial process is that the judge must decide what evidence is admissible for the jury to hear. Judges are truly the gate-keepers of *all* forms of evidence. In the 1993 *Daubert* case, 8 the U.S. Supreme Court made it very clear that judges are gatekeepers of forensic science evidence and that judges are required to determine if offered expert evidence is "scientifically valid and . . . whether that reasoning or methodology properly can be applied to the facts in issue." Federal Rule of Evidence 702 was subsequently amended to incorporate the *Daubert* requirements.

Michigan is a "Daubert state." MRE 702 was amended to correspond to the Daubert modified FRE 702. In Gilbert v Daimler-Chrysler Corp, the Michigan Supreme Court said: "We now clarify that MRE 702 requires the trial court to ensure that each aspect of an expert witness's proffered testimony — including the data underlying the expert's theories and the methodology by which the expert draws conclusions from that data — is reliable." The Court went on to say that "MRE 702 has since been amended explicitly to incorporate Daubert's standards of reliability. . . . It has not altered the court's fundamental duty of ensuring that all expert opinion testimony — regardless of whether the testimony is based on 'novel' science — is reliable."

In *Daubert*, Justice Blackmun said that the Court was confident that judges "possess the capacity to undertake this review." ¹³ Unfortunately, whether judges are able to do so depends on whether they are willing to do so. The reality of the wrongful conviction data is

that many judges have not effectively performed their gatekeeping responsibility. Many judges avoid holding a *Daubert* hearing, even when requested by the defense, and routinely admit almost all prosecution-proffered forensic science evidence. Appellate courts rarely reverse a conviction based on faulty forensic science evidence, even when it is challenged on appeal. In many criminal cases, judges have overwhelmingly failed to conduct hearings to determine the reliability of most traditional forms of forensic science. Many have abdicated their gatekeeping duty and continued to admit whatever evidence the prosecution offers. ¹⁴ Even if a hearing is conducted, many judges continue to routinely admit forensic science evidence just because it has "always" been admitted. Some even reverse the burden of proof and require the defense to show why traditionally admitted evidence is now inadmissible. ¹⁵

The failure of judges to conduct meaningful *Daubert* hearings was well documented by scholars. ¹⁶ Many judges simply refused to consider or weigh challenges to types of evidence that has been routinely admitted in the past. ¹⁷ Civil lawyers urged an amendment to FRE 702 to try to get judges to hold meaningful hearings, stating, "The evidence demonstrates the need for an amendment clarifying that Rule 702 requires courts to find that the rule's admissibility requirements are established by a preponderance of the evidence prior to admitting expert evidence." ¹⁸ Eventually, these problems were examined by the United States Judicial Conference, the organization that advises the U.S. Supreme Court about federal rules. ¹⁹ They recommended, and the Supreme Court and Congress adopted, the following amendments to FRE 702:

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if the proponent has demonstrated to the court that it is more likely than not that:

- a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;
- b) the testimony is based on sufficient facts or data;
- c) the testimony is the product of reliable principles and methods; and
- d) expert's opinion reflects a reliable application of the principles and methods to the facts of the case.

The amendments became effective in federal court on December 1, 2023. The State Bar of Michigan's Michigan Rules of Evidence 702/703 Workgroup recommended that MRE 702 be amended to substantially incorporate the federal amendments. The amended MRE 702 was adopted by the Michigan Supreme Court, effective on May 1, 2024. The amendments of May 1, 2024.

The goal of these changes is intended to be a clear message to judges. First, they must fulfill their duty to conduct hearings to determine the reliability of the science underlying any proposed expert

testimony. That reliability must be demonstrated "to the court," and admissibility is not a matter of "weight" to be left to the jury.²³ Second, the burden of proving the reliability of that science and its application to the facts of the case is on "the proponent."²⁴ Prior admission of similar testimony by courts does not somehow reverse the burden of proof. Third, the burden on the proponent of proving reliability and applicability is the traditional preponderance standard of "more likely than not."²⁵

It may be correct that, as the SBM work group said, these are not substantive changes to the law and they are just reinforcing the mandates of *Daubert*. But, as the work group went on to say, "To the extent one purpose of the rule amendment is to prod courts to remember their gatekeeping functions, the salutary function of the rule is unobjectionable." Nevertheless, it is a prod that is clearly needed. Judges have an affirmative duty to close the gate on the admission of types of evidence that have led to the wrongful conviction of innocent people.

And now, the use of artificial intelligence (AI) to generate forensic science evidence has complicated the gatekeeping duty of judges even further. Many judges are justifiably skeptical of the legal uses of AI because of its well-documented proclivity to manufacture, or "hallucinate," case citations. There is even a database documenting AI hallucination in legal cases, and the number of examples has already exceeded 400.²⁷ Concern over such inventions and the problem of "deep fakes," however, is not limited to legal applications. AI machine learning is transforming the production of forensic science evidence.²⁸ AI is based on programmed algorithms that can process and interpret vast amounts of data. That makes it ideal for forensic science applications. It is being used for digital forensics analysis, biometric identification such as facial recognition, DNA analysis, crime scene reconstruction, and many other forensic science functions.²⁹

But how are judges supposed to decide if the results of such machine-produced conclusions should be admitted into evidence? The existing rules of evidence did not seem to address this new form of forensic science information. In response to this issue, the federal court rules are being amended again. The Judicial Conference of the U.S. has recommended adoption of a new Federal Rule of Evidence 707.30 The new rule states:

Rule 707. Machine-Generated Evidence

When machine-generated evidence is offered without an expert witness and would be subject to Rule 702 if testified to by a witness, the court may admit the evidence only if it satisfies the requirements of Rule 702 (a)-(d). This rule does not apply to the output of basic scientific instruments.

The stated rationale for the new rule by the committee explains that "This newly adopted rule is designed to address growing concerns around the use of Al-generated evidence, particularly when such evidence functions similarly to expert testimony and raises parallel questions of reliability, bias, error, and interpretability."³¹

The result of this new Rule 707, together with the amended Rule 702, is that courts must now apply the *Daubert* criteria to Al-generated evidence in the same way as any other expert evidence.³² The proponent of the Al-generated evidence must establish that the Al evidence meets the *Daubert* requirement of testing, error rates, peer review, standards, and general acceptance. This may prove difficult for several reasons. The courts may require, especially in criminal cases, disclosure of the source code used to produce the algorithms for the Al evidence, and Al commercial providers may be reluctant to comply. Most problematic is the lack of validation for many of the Al tools being used in laboratories.³³

FRE 707 is open for public comment until February 16, 2026. If it is finally adopted, as expected, it would probably take effect later that year. The Michigan Supreme Court will then decide if it should be replicated in the Michigan Rules. It should be, and Michigan judges should begin to actively exercise their duty to ensure that the forensic science evidence the jury hears is truly valid and reliable.

Donald Shelton was a circuit court judge in Ann Arbor for 25 years. In addition to his law degree from the University of Michigan, he has a master's degree in criminology from Eastern Michigan University and a PhD in judicial studies from the University of Nevada. His dissertation was Criminal Adjudication: The Challenges of Forensic Science Evidence in the Early 21st Century. After his mandatory judicial retirement in 2014, he was the director of the Criminology and Criminal Justice Program at the University of Michigan (Dearborn) for 10 years. Judge Shelton's forensic science research led to two books (Forensic Science in Court Challenges in the 21st Century and Forensic Science Evidence: Can the Law Keep Up With Science?), as well as many research papers and scholarly presentations around the country. He retired (again) from the University of Michigan in 2024 but continues to teach forensic science and criminal justice online at Michigan State University and the University of Arizona. His third book, The Role of Science in the Criminal Justice System, will be published early next year.

ENDNOTES

- 1. Executive Order 2021-4 https://www.michigan.gov/whitmer/news/state-orders-and-directives/2021/04/02/executive-order-2021-4-task-force-on-forensic-science (all websites accessed October 31, 2025).
- 2. Michigan Task Force on Forensic Science Report and Recommendations (Dec 21, 2022) .
- 3. Id.
- Id.
- 5. National Registry of Exonerations https://www.law.umich.edu/special/exoneration/Pages/ExonerationsContribFactorsByCrime.aspx.
- 6. Id.
- 7. Id.
- 8. Daubert v Merrell Dow Pharm, Inc, 509 US 579; 113 S Ct 2786; 125 L Ed 2d 469 (1993).
- 9 Id. at 592-3.

- 10. Gilbert v DaimlerChrysler Corp, 470 Mich 749; 685 NW2d 391 (2004).
- 11. Id. at 779.
- 12. Id. at 781-782.
- 13. Daubert, supra n 88 at 593.
- 14. See Garrett, Convicting the Innocent (London: Harvard University Press 2011); Garratt & Neufeld, Invalid Forensic Science Testimony and Wrongful Convictions, 95 Va L Rev 1 (2009); Bonaventre, Wrongful Convictions and Forensic Science, 3 WIREs Forensic Science 4 (2021) https://doi.org/10.1002/wfs2.1406>.
- 15. See, e.g., US v Crisp, 324 F 3d 261 (CA 4, 2003).
- 16. Bernstein & Lasker, Defending Daubert: It's Time to Amend Federal Rule of Evidence 702, 57 William & Mary L Rev 1 (2015), "Many courts continue to resist the judiciary's proper gatekeeping role, either by ignoring Rule 702's mandate altogether or by aggressively reinterpreting the Rule's provisions."
- 17. Lander, Fixing Rule 702: The PCAST Report and Steps to Ensure the Reliability of Forensic Feature-Comparison Methods in the Criminal Courts, 86 Fordham L Rev 1661 (2018), "[M]any judges are also reluctant to challenge long-standing precedents concerning the admissibility of forensic methods, even when they were established long before current problems became apparent."
- 18. Jackson & Trask, Federal Rules of Evidence 702: A One-Year Review and Study of Decisions in 2020, Lawyers for Civil Justice (Sept 30, 2021) <lcj_study_of_rule_702_ decisions_from_2020_-_sept_30_2021.pdf>
- 19. About the Judicial Conference of the United States, United States Courts https:// www.uscourts.gov/about-federal-courts/governance-judicial-conference/about-judicial-conference>.
- 20. Proposed Amendments to the Rules of Evidence https://www.supremecourt. gov/orders/courtorders/frev23_5468.pdf>.

- 21. Proposed Amendments of Rule 702 and 703 of the Michigan Rules of Evidence, State Bar of Michigan https://www.michbar.org/file/publicpolicy/pdfs/ MRE_702_703_Final_Report.pdf>.
- 22. Order of the Michigan Supreme Court, issued March 27, 2024 (ADM File NO. 2022-30) https://www.courts.michigan.gov/49607b/siteassets/rules-instruc- tions-administrative-orders/proposed-and-recently-adopted-orders-on-admin-matters/ adopted-orders/2022-30_2024-03-27_formor_amdmre702-804.pdf>.
- 23. Proposed Amendments of Rule 702 and 703, supra n 21.
- 25 Id
- 26. Proposed Amendments to the Rules of Evidence, supra n 20.
- 27. Charlotin, AI Hallucination Cases https://www.damiencharlotin.com/hallucina-
- 28. See Houk, The Potential for AI in Forensic Science, The ISHI Report https:// promega.foleon.com/theishireport/the-ishi-report-august-2024/the-potential-for-artificial-intelligence-in-forensic-science>.
- 29. See Gaona, The Role of Al in Forensics, Marymount University (Sept 10, 2024) https://marymount.edu/blog/the-role-of-ai-in-forensics/.
- 30. Committee on Rules of Practice and Procedure, Agenda Books 5-8 (June 2025) https://www.uscourts.gov/forms-rules/records-rules-committees/agenda-books/ committee-rules-practice-and-procedure-june-2025>.
- 31. Id.
- 32. See Grimm, Proposed FRE 707 and Al Evidence in Federal Court, Reuters Practical Law Journal (Oct 2025) https://www.reuters.com/practical-law-the-journal/ litigation/proposed-fre-707-ai-evidence-federal-court-2025-10-01/>.
- 33. Houk, supra n 28.

















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BARJOURNAL



Legal updates for those invested in community associations

BY AMY M. SMITH AND JEFFREY L. VOLLMER

Even attorneys not practicing community association law may be interested in the latest issues affecting condominiums and subdivisions where they serve on their association's board of directors or own property. Variety is the spice of life, and representing, administering, and living in community associations exposes those

stakeholders to a myriad of legal concepts. In this article, we hope to shed light on some trending topics.

HOMEOWNERS' ENERGY POLICY ACT

The State of Michigan adopted Public Act 68 of 2024, known

as the "Homeowners' Energy Policy Act" (the "Act")¹ on April 2, 2025. This Act impairs the ability of "community associations" to restrict energy-saving improvements and solar energy systems. Although the Act has a greater impact on site condominiums and subdivision associations, all community associations in Michigan are affected and must act in response to this new law.

The Act does not apply to "shared roofs" or "common areas."² It defines a "shared roof" as a roof that serves more than one residence or unit, including contiguous roofs serving adjacent units.3 For developments with shared roofs, associations can deny applications for "solar energy system" installations or "energy-saving improvements or modifications" on these roofs. The Act defines "solar energy system" as a complete assembly, structure, or design of a solar collector or solar storage mechanism that uses solar energy for generating electricity or heating or cooling materials⁴ — in other words, a typical roof-mounted solar panel energy system. The Act specifies that "energy-saving improvements or modifications" include, but are not limited to, clotheslines, air source heat pumps, ground source heat pumps, insulation, rain barrels, reflective roofing, energy-efficient appliances, solar water heaters, electric vehicle supply equipment, energy-efficient windows, and energy-efficient insulation materials.5

Similarly, the Act does not apply to "common areas," which it defines as "a portion of a building, land, or amenities owned or managed by the homeowners' association that is generally accessible to all members of the association." This includes open space areas, hallways, stairways, elevators, lobbies, laundry and recreational rooms, garages, public green space and parks, community buildings, or fitness rooms. In condominiums, boards may generally prohibit the installation of solar energy systems or energy-saving improvements or modifications on general common elements, including open space areas.

The Act first addresses energy-saving improvements or modifications⁷ and invalidates any provisions in an association's governing documents prohibiting or requiring association approval for the replacement, maintenance, installation, or operation of "energy-saving improvements or modifications," except in "common areas" or on "shared roofs." It also nullifies provisions compelling or requiring association approval for auxiliary changes needed for these improvements, although auxiliary changes are not defined. Simply put, community associations cannot require approval for installation of these "energy-saving improvements or modifications" (except within common areas or on shared roofs), and the Act supersedes any inconsistent restrictions in governing documents currently requiring approval.

The Act separately addresses solar panels and guarantees that owners may install a wide variety of solar energy systems by invalidating restrictions prohibiting, or having the effect of prohibiting, energy-saving improvements or modifications, as well as solar energy systems. Associations may not inquire into a member's energy

usage, impose conditions that impair the operation of solar energy systems, or charge excessive application fees.

All associations in Michigan must adopt a written solar energy policy statement within one year of the Act's effective date, or April 2, 2026. This policy is crucial because it sets the framework for how solar energy systems are to be integrated within the community, ensuring a streamlined process in their adoption and maintenance. The Act does not exempt associations from adopting a policy, even if their community has primarily (or solely) shared roofs and common areas.

The solar energy policy statement must reflect the standards established under the Act, contain certain disclosures, and must not conflict with local, state, or federal laws. Specifically, the policy must include the following:

- The association must facilitate the installation of solar energy systems on roof faces without specifying the type of technology used, such as solar shingles versus traditional solar panels.
- Any standards enforced must not reduce electricity production by more than 10% or increase installation costs by more than \$1,000.
- The approval of an adjacent home or unit owner is not required for a member to install a solar energy system.
- The association shall not inquire into a member's energy usage, impose conditions that impair the operation of the solar energy system, or negatively impact any industry standard warranties.
- The policy should also clearly outline that no post-installation reporting is required and that any application fees for installing a solar energy system should not exceed those for other property changes.¹¹
- The association will not deny a member's application to install a solar energy system based on the entity owning the system or the financing method chosen by the member.¹²

The association may deny the application under specific conditions, including: (1) if the installation is proposed for a shared roof; (2) if the system extends more than 6 inches above the roof; (3) if the system does not conform to the roof slope or has a top edge not parallel to the roof line; (4) if the frame, support bracket, or visible conduit or wiring is not in a silver, bronze, or black tone commonly available in the marketplace; or (5) if the system is proposed for installation in a fenced yard or patio and will be taller than the fence line. ¹³ An application can also be denied if a court has found that the installation violates a law or if the installed system does not substantially conform to the approved application. ¹⁴ The Act further permits associations to impose reasonable conditions for the maintenance, repair, replacement, or removal of damaged or inoperable solar energy systems, but these conditions must not be more burdensome than those applied to non-solar projects.

Community associations must respond to the application within specific timeframes. If the association has adopted a solar energy policy, the response must be given within 30 days of receiving the application. If the application is submitted before the association adopts the required solar energy policy, the response must be given within 120

days of receiving the application. If the association fails to respond within these timeframes, the member is permitted to proceed with the installation of the solar energy system without further approval, and the association cannot impose fines or otherwise penalize the member.¹⁵

Community associations must ensure all members are aware of the new policy by making a copy of the policy available within 30 days of adoption, as well as posting the policy on the association's website (if applicable), and providing it upon request.¹⁶

If an association violates the Act, a member may bring a civil action against the association for damages. If the member prevails, the court may award reasonable attorney fees and costs incurred by the member in bringing the action.¹⁷

As a result of this Act, community associations no longer have exclusive architectural control over energy-saving improvements and solar energy systems outside common areas and shared roofs. The Act marks a notable change in encouraging energy efficiency and sustainability within homeowners' associations, regardless of restrictions in association governing documents or a board's oversight related to community aesthetics.

PREMISES LIABILITY ACTIONS IN CONDOMINIUMS

Dating back to 2015, condominium co-owners could not bring premises liability claims against their association for injuries occurring on common elements of a condominium project. A "co-owner" is an owner of a condominium unit, while "common elements" are the portions of the condominium other than the condominium units. Since a co-owner of a condominium unit was essentially a joint owner of the common elements, an injured co-owner did not enter upon the land of another and was not a licensee or invitee. It followed that condominium associations did not owe the injured co-owner a duty under a premises-liability theory.

The Michigan Supreme Court reversed that precedent in July 2024.²³ The Court reasoned that if a condominium's master deed and bylaws assign responsibility for maintaining common elements to the association, then the co-owners lack "possession and control" over those areas.²⁴ Since co-owners are paying assessments to their association, in part, to maintain the common elements, co-owners using those areas are invitees.²⁵ As invitees, co-owners are entitled to the "highest level of protection" under Michigan's premises liability law and are owed a common law duty by their association to be protected from dangerous conditions in those areas.²⁶

The reclassification of a co-owner to an invitee subject to premises liability principles with their condominium association is relevant under the Michigan Supreme Court's 2023 clarification on open and obvious conditions.²⁷ Injured co-owners must only navigate whether their comparative fault in the presence of open and obvious conditions will impair recovery as opposed to open and obvious conditions abrogating the duty of the condominium association.²⁸

These decisions should encourage condominium association boards to review their insurance policies with their advisors and reaffirm that reasonable care is utilized to rectify dangerous conditions on the common elements. However, condominium associations may also consider whether amending the master deed and bylaws to place a greater responsibility on maintenance, repair, and replacement of the common elements on individual co-owners is advisable.²⁹ In many communities with attached units, the association is responsible for porches, walkways, and driveways servicing a unit. With this expanded exposure, should associations consider shifting maintenance obligations (including snow and ice removal) for such improvements from the association to the individual co-owner via an amendment? By doing so, the association is no longer maintaining and exercising "control" over these common elements, although convincing 2/3rds of the co-owners to vote for that amendment could be a challenge.

PRESERVING RESTRICTIVE COVENANTS UNDER THE MARKETABLE RECORD TITLE ACT

When the Michigan legislature overhauled the Marketable Record Title Act (MRTA) in 2018, MCL 565.101 *et seq.*, it established a sunset date for preserving certain restrictions more than forty (40) years of age.³⁰ The original sunset date was set to expire March 29, 2021.³¹ In 2020, that sunset date was extended until March 29, 2024.³² On September 29, 2025, the long-anticipated deadline arrived for addressing the potential expiration of subdivision restrictions more than forty years old under the MRTA. ³³ On the same day, the governor signed into law a bill amending the MRTA, effectively resolving years of uncertainty surrounding the continued validity of older subdivision restrictions.³⁴

The 2025 amendment to the MRTA modifies the title and amends sections 1, 1a, 2, 3, 4, 5, 6, and 8 (MCL 565.101, 565.101a, 565.102, 565.103, 565.104, 565.105, 565.106, and 565.108). It also adds a new section, 5a (MCL 565.105a). Importantly for community associations, the amendment ensures that subdivision and condominium restrictions recorded on or after January 1, 1950, will not expire under the Act.³⁵ This change brings long-term stability to Michigan's common-interest communities and, in particular, older subdivisions whose restrictions were at risk of expiration.

The revised statute expressly exempts both subdivisions and condominiums from the MRTA's extinguishment provisions. Specifically, the new subsections provide that the MRTA does not apply to:

- MCL 565.105a(g): Any interest created by a declaration or other recorded instrument or agreement executed and recorded on or after January 1, 1950, that subjects land to restrictions, obligations, or benefits applying to each lot or parcel.
- MCL 565.105a(h): Any interest created by a recorded master deed for a condominium or any recorded amendments to it.

After years of uncertainty and successive legislative extensions, Michigan has now provided a permanent resolution to the MRTA issue. This

statutory clarification brings welcome certainty to community associations, property owners, and real estate professionals alike. Subdivision restrictions recorded in or after 1950 are now explicitly protected from expiration under MRTA, removing the need for associations to record "notices of claim" merely to preserve their governing documents.

Condominiums are now expressly protected as well, although their exemption under earlier versions of the statute was generally accepted due to the Michigan Condominium Act's governance framework. The 2025 amendment closes the statutory gap and harmonizes treatment across all forms of common-interest ownership.



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ENDNOTES

1.MCL 559.301, et seq.

2.MCL 559.313.

3.MCL 559.303(g).

4.MCL 559.303(j).

5.MCL 559.303(c).

6.MCL 559.303(a).

7.MCL 559.305.

8.MCL 559.307; 559.313.

9.MCL 559.305.

10. MCL 559.309.

11 *Id*

12. MCL 559.309(1)(f)(ii)(F).

13. MCL 559.309(1)(f)(v).

14. Id.

15. MCL 559.311(2)-(3)

16. MCL 559.309(2)(a)-(b).

17. MCL 559.315.

18. Francescutti v Fox Chase Condo Ass'n, 312 Mich App 640; 886 NW2d 891 (2015), abrogated by Janini v Tondon Townhouses Condo Ass'n, 514 Mich 86; 22 NW2d 24 (2024).

19. MCL 559.106(1).

20. MCL 559.103(7).

21. Francescutti, supra n 18 at 643.

22. *Id.* Co-owners could still maintain general negligence and breach of contract claims against their association.

23. Janini, supra n 18.

24. Id. at 99-101.

25. Id. at 102.

26. Id. at 105.

27. Kandil-Elsayed v F & E Oil, Inc, 512 Mich 95; 1 NW2d 44 (2023).

28. Id. at 144

29. Master deeds and bylaws of condominium projects may be amended under MCL 559.190 and MCL 559.190a.

30. 2018 PA 572.

31. Id.

32. 2020 PA 294.

33. MCL 565.103.

34. 2025 PA 13.

35. MCL 565.105a(g).



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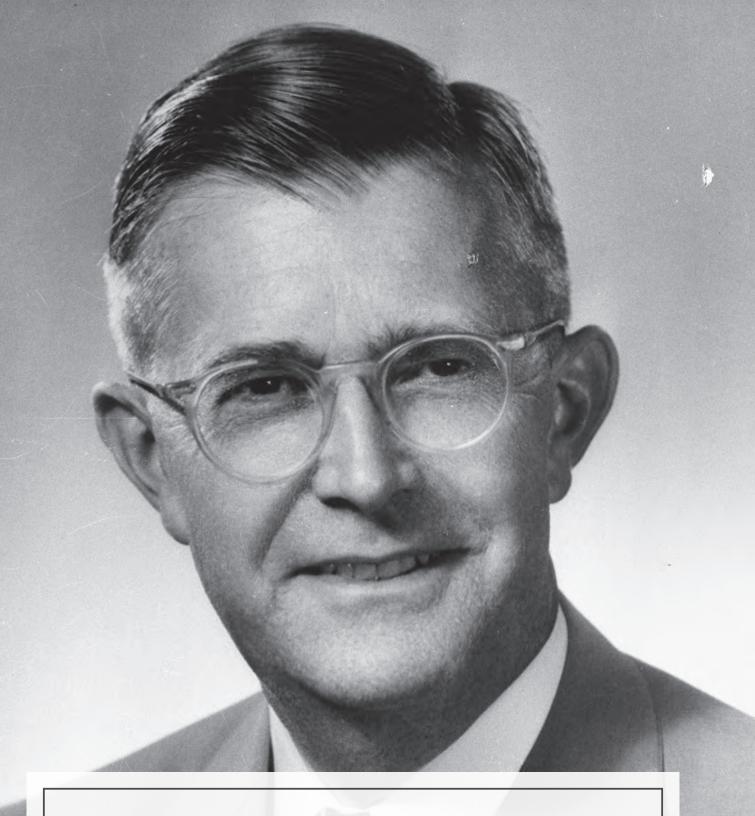
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MICHIGAN LAWYERS IN HISTORY

Henry Woolfenden

BY CARRIE SHARLOW

As Michigan's newly established integrated bar association was settling into its new role in late 1935, circuit court judge and association secretary Glenn C. Gillespie went to visit Henry Woolfenden. Given that Gillespie was serving in the Sixth Circuit Court and Woolfenden had most likely argued cases there, the two likely knew each other well, but it was not a social visit.

Instead, Gillespie went on about the new statewide legal organization and spent a good hour telling Woolfenden about "all the problems" the organization was dealing with and how it was completely overwhelmed, even as governing commissioners were offering their extra time.¹ At the end of the chat, Gillespie offered Woolfenden a job as the organization's first executive.² If Woolfenden's recollection of the events is to be believed, Gillespie was not the best salesman. And Woolfenden knew a bad pitch when he heard one.

Henry Lumsden Woolfenden Jr. was descended from successful salesmen. His grandfather, Joseph Bedale Woolfenden, emigrated from England in the 1860s³ and eventually settled in Detroit, where he ended up partnering with other dry goods merchants to found the Elliott-Taylor-Woolfenden Company.⁴ Photographs in the Detroit Public Library's digital collections show a stunning five-story department store on Woodward Avenue, and Detroit Free Press issues from that era are peppered with ads for Elliott-Taylor-Woolfenden sales on trimmed hats, house slippers, and electric lamps.⁵

Joseph Woolfenden's oldest son, Henry Sr., was born in 1874.6 Henry Sr. was highly educated, earning a bachelor's degree in science, a master's degree in science, and an electrical engineering degree in an eight-year span.⁷ He worked for a local manufacturing business before moving his small family to Colorado to head the Denver office of Allis-Chalmers Manufacturing, a heavy machinery company with a Midwestern presence.⁸ Henry Jr. was born in Denver on Nov. 25, 1906.⁹

And perhaps the Woolfendens would have stayed in Colorado if the Midwestern branch hadn't summoned them home. Joseph Woolfenden became ill and, presumably, Henry Woolfenden Sr. returned to Michigan to help with the family business.

Henry Woolfenden Jr. finished his high school education in Detroit and enrolled at the University of Michigan, graduating in 1925. 10 Given the family predilection toward manufacturing and mercantile, it'd be interesting to know why the younger Woolfenden eschewed that path and decided to go to law school but, obviously, it was an excellent fit. He graduated from the Detroit College of Law in 1929 and then passed the bar exam.

On Jan. 29, 1930, Woolfenden was one of 23 others sworn into the bar by Judge Arthur Tuttle.¹¹ By 1935, Woolfenden had settled in Pontiac, where he was happily married, the father of two young daughters, and operating a successful law practice. And that's when Judge Gillespie came calling.

When interviewed in connection with the 50th anniversary of the State Bar of Michigan, Woolfenden vividly recalled the visit from Gillespie. After a lengthy discussion, Woolfenden informed the judge that he was not interested in either taking a pay cut or a lengthy commute (and possibly a move) to Lansing. And while Gillespie may not have been the best salesman, he was an excellent judge of character. He persisted, and Woolfenden agreed to a two-week trial period as the State Bar of Michigan's first executive. ¹²

Of course, Woolfenden was right: It was a long commute, and it wasn't long before he moved his family to the Lansing area. ¹³ But the judge was even more right: Woolfenden was a perfect fit for the job and for the State Bar. The son and grandson of salesmen, he traveled across the state and sold the concept and purpose of an integrated, mandatory bar not only for "the many services and benefits available to lawyers through their State Bar membership" ¹⁴ but for the protection of the public they all served. It wasn't long before members knew him simply as "Henry from the Lansing office." ¹⁵

In the end, Woolfenden's two-week trial period lasted 364 weeks, officially ending on Jan. 1, 1943. But in a way, it lasted a lifetime: he never really left the State Bar. Even when he worked at different firms and associations, ¹⁶ he always maintained an interest in State Bar activities. ¹⁷ When he wasn't employed by the State Bar, he volunteered. As an example, he made a seamless transition from or-

ganizing publication of the *Michigan Bar Journal* as SBM executive secretary to serving on the Michigan State Bar Journal Committee as a volunteer.¹⁸ In 1950, he was elected to the American Bar Association House of Delegates.¹⁹ And surely it was no surprise when he was elected to the SBM Board of Commissioners in 1951.

In fact, nearly two decades after he first became known to State Bar members as "Henry in the Lansing office," Gillespie introduced Woolfenden as the Bar's newly inaugurated 20th president. He remains the only former State Bar of Michigan executive to later serve as its president.²⁰

When Woolfenden died in 1988, his wife, Helen, summarized his life simply, stating that "He was first and foremost a lawyer." ²¹ One could also claim that he was first and foremost a State Bar of Michigan lawyer.

Carrie Sharlow is an administrative assistant at the State Bar of Michigan.

ENDNOTES

- 1. Jourdan, The Only Time It Is Possible to Fail Is the Last Time You Try, 64 Mich B J 68, 68-71 (1985).
- 2 Id
- 3. Burton ed, *The City of Detroit, Michigan 1701-1922, Volume 3* (Detroit: The S.J. Clarke Publishing Co, 1922), p 99.
- 4. Death Claims J.B. Woolfenden: Pioneer Detroit Department Store Merchant Taken After Long Illness, Detroit Free Press (August 4, 1923), pp 1, 10.
- 5. Detroit Free Press (December 7, 1913), Part 1, p 11.
- 6. Burton, supra n 3.
- 7. History of Colorado Volume IV (Chicago: The S.J. Clarke Publishing Co, 1919), pp 697-698.
- 8. Henry Woolfenden Sr. married Carrie Thomas in 1900; they had their first son in 1901.
- 9. History of Colorado, supra n 7.
- 10. Chesley, Henry Woolfenden, 82, Devoted Himself to Law, Detroit Free Press (December 11, 1988), p 15H.
- 11. Tuttle Admits 24 to Practice: Judge Cover of Pontiac Acts as Sponsor for Group, Including His Son, Detroit Free Press (January 30, 1930), p 3.
- 12. Jourdan, supra n 1.
- 13. In New Homes in East Lansing, The Lansing State Journal (March 9, 1941), p 11.
- 14. Local Bar Ass'n News, 17 Mich St B J 117 (March April 1938).
- 15. Gillespie, In Appreciation of the Services of Henry L. Woolfenden, 21 Mich St B J 471, 471-472 (December 1942.
- 16. See Woolfenden Enters Private Practice, 23 Mich St B J 474 (September 1944) for one such example.
- 17. Gillespie, Henry L. Woolfenden: President of the State Bar of Michigan, 33 Mich St B J 27, 27-28 (October 1954).
- 18. See *Contents*, 24 Mich St BJ 670 (December 1945) for an example of Woolfenden's service on the Michigan State Bar Journal Committee.
- 19. Allaben, Gault, Woolfenden to House of Delegates, 29 Mich St B J 22 (November 1950).
- 20. Gillespie, supra n 17.
- 21. Chelsey, supra n 10.



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Alien to the common law: Why SEC v Jarkesy is of no moment to the NLRB

BY NICHOLAS M. OHANESIAN

On June 27, 2024, the United States Supreme Court issued their decision in Securities and Exchange Commission v Jarkesy.\(^1\) The Court invalidated the SEC's process of levying fines for securities fraud via the administrative hearing process as violating the Seventh Amendment. In so doing, the Court called into question similar processes employed by other administrative agencies and added another arrow to the quiver of those seeking to challenge the authority of administrative agencies.

While the National Labor Relations Board (NLRB) was previously found to be outside of the ambit of the Seventh Amendment, the changing judicial currents to be discussed below merit a revisiting of this issue.²

A. Jarkesy

In SEC v Jarkesy, the Court was called upon to decide whether the levying of fines through the administrative process by the SEC vio-

lated the Seventh Amendment, which reads in full:

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.³

The Court held that Congress had exceeded their authority as part of the Dodd-Frank Act by empowering the SEC to levy financial penalties for securities fraud through the administrative process before administrative law judges. Previously, this remedy was only available by proceeding via federal court proceeding. The Court reached this conclusion by comparing the SEC's administrative process to the common law tort of fraud. Having reached this comparison point, the Court held that there was a right to a jury trial under the Seventh Amendment and therefore struck down the levying of fines through the administrative process. The court further found that the "public right" exception did not apply because the SEC's process did not fall within the area of government actions where the matter can be resolved without resorting to a jury.

B. NLRB

The NLRB was created in 1935 to enforce the National Labor Relations Act (NLRA). It has undergone only two major substantive changes since its passage, first in 1947 with the Taft-Hartley Act⁴ and again in 1959 with the Landrum-Griffin Act.⁵ The NLRB is divided into an investigative and prosecutorial component headed by the general counsel and an adjudicative side composed of five board members. Each is appointed by the president and subject to Senate confirmation. The general counsel is charged with investigating and where appropriate prosecuting violations of Section 8 of the NLRA, formally referred to as unfair labor practices. Following issuance of a complaint by the general counsel, the case in the absence of a settlement proceeds to trial before an administrative law judge, who will issue a decision that can be appealed to the five-member board functioning as an appellate body. Following the final order of the board, the case is subject to federal court review at the circuit court level.

JARKESY ANALYSIS

A. Suit at Common Law

The analysis under *Jarkesy* of the NLRB is twofold. First, the court must ask if there is a common law analogue to the administrative process employed by the NLRB. Assuming the answer to the first question is in the affirmative, the court then looks to see of the "public rights" exception applies.

Turning to the first question, the NLRB's remedial structure stands athwart the SEC. The remedial structure under the NLRB is limited to "make whole" remedies and lacks punitive authority. Employers or unions who violate the NLRA are subjected to cease and desist orders and affirmative orders fashioned to cure the violation(s). For example, if an employer infringed on the right of employees to support a union by threatening said employees with discharge, the NLRB would

require the party to cease and desist from the offending conduct and communicate this action through posting a notice acknowledging the conduct and affirming the rights of employees to be free of the same. If an employer or a labor union failed to bargain in good faith with respect to a collective bargaining agreement, the NLRB would seek an order requiring the parties to return to the negotiating table and, depending on the circumstances, require meetings to be held with a minimum amount of frequency and length or other conditions to facilitate good faith negotiations. Even with these remedies for bargaining, the Supreme Court has emphatically held that the NLRB cannot compel an agreement or force a concession at the bargaining table. Finally, if an employer discharged an employee in retaliation for their support for a labor union or a union caused the same, the violator would be reguired to reinstate the employee and make them whole for their losses. Unlike the fine paid to the SEC in the Jarkesy case, the monetary aspect of the remedy passes through the NLRB and to the discharged employee. The NLRB is exercising equitable authority.8

Even assuming that a court were to find the remedial structure of the NLRA analogous to a suit brought at common law, there is an independent reason to find the NLRA to fall neatly within the public rights exception. There was, for much of the history of the United States, no free associational right to join a labor union. In fact, much of the common law treatment of labor unions and their supporters settled on thwarting them to various degrees. It was not until 1842 and the half-century following the enactment of the Seventh Amendment that the Massachusetts Supreme Court in Commonwealth v Hunt held that the common law of conspiracy did not apply to workers seeking to bargain collectively when legal means were used in furtherance of legal outcomes.

A brief detour to the Michigan Supreme Court illustrates how little practical protection *Commonwealth v Hunt* provided under common law. In *Beck v Railway Teamsters Protective Union*, the Michigan Supreme Court, after first recognizing the right of workers to be protected from common law conspiracy under *Commonwealth v Hunt*, proceeded to find the act of calling for a peaceful boycott to enforce labor union demands to be enjoinable.¹¹ While the workers were not subject to criminal prosecution, any efforts to enforce their demands after asking nicely risked a contempt citation.

The "legal means" caveat became even more precarious following the passage of the Sherman Antitrust, in 1890 with its treble damages provision. ¹² In *Loewe v Lawlor*, the Supreme Court found the Sherman Antitrust Act applicable to consumer boycotts led by a labor union. ¹³ When Congress attempted to rectify this application with the passage of Sections 6 and 20 of the Clayton Act, ¹⁴ rather than construe the amendments as a rebuke of their misconstruction of the Sherman Antitrust Act, the Court found in *Duplex Printing v Deering* that Congress reaffirmed the application of the Act to even peaceful boycotts by labor unions of third-party employers. ¹⁵ It was not until the passage of the Norris-LaGuardia Act in 1932 that courts, involvement in peaceful labor disputes was ultimately curbed. ¹⁶ With

the concerns of prior court involvement no doubt on their minds, Congress passed the NLRA is 1935 and specifically structured it so as to postpone judicial involvement to the appellate stage.

CONCLUSION

The power exercised by the NLRB is equitable in nature and thus outside the ambit of the Seventh Amendment. Furthermore, there is no common law analogue either historically or in a novel sense, and accordingly, the Public Rights exception applies.



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ENDNOTES

- 1. Security and Exch Comm v Jarkesy, 603 US 109; 219 L Ed 650 (2024).
- 2. See NLRB v Jones & Laughlin Steel Corp, 301 US 1, 48; 57 S Ct 615; 81 L Ed 893 (1937).
- 3. US Const, Am VII.
- 4. 29 USC 7 §§ 141-197.
- 5. 29 USC 11 §§ 401-531.
- 6. 29 USC §160(c).
- 7. HK Porter Co v NLRB, 397 US 99; 90 S Ct 821; 25 L Ed 2d 146 (1970).
- 8. See YAPP USA Auto Sys, Inc v NLRB, 748 F Supp 3d 497 (ED Mich, 2024).
- 9. Hudson, Freedom of Association, Free Speech Center at Middle Tennessee State University https://firstamendment.mtsu.edu/article/freedom-of-association/ (updated May 05, 2025) (accessed October 30, 2025).
- 10. Commonwealth v Hunt, 45 Mass 111 (1842).
- 11. Beck v R Teamsters' Protective Union, 118 Mich 497; 77 NW 13 (1898).
- 12. 15 USC 1 §1-7.
- 13. Lowe v Lawlor, 208 US 274; 28 S Ct 301; 52 L Ed 488 (1908).
- 14. 15 US §§ 6, 20.
- 15. Duplex Printing Press Co v Deering, 254 US 443; 41 S Ct 172; 65 L Ed 349 (1921), superseded by statute.
- 16. 29 USC §101 et seq.





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BY MARK COONEY

From the archives, we bring back this seasonal favorite. It has become a classic. —JK

Ebenezer Scribe stoked the dying embers, folded himself in a wool afghan, and rejoined his wingback chair. He'd had another productive day, adding a good ten billable hours to Scribe & Morley's ledger. Now, in the faint firelight, he was enjoying his hard-earned repose. As he picked up his bowl of stew, he felt a whisper of a draft against the back of his neck and then, inexplicably, heard the gentle ring of the old servant bell, a vestige of his Victorian home's century-old design.

"Humbug," scowled Scribe, who was in no mood for mysterious disturbances. But he would not guell things so easily this night.

Clank, clank, thump.

Scribe snapped to attention. A few seconds passed. Then quiet again. "Confounded old pipes. Humbug!" He dipped his spoon into his stew. Then the servant bell rang again, this time with vigor.

Clank, clank, thump.

"Blasted, confounded old —"

But before the next word fell from Scribe's acid tongue, every bell and chime in the house clamored. Scribe's stew bowl fell to the floor, dumping its contents onto the hearth rug. And then, before Scribe could register what was happening, a glowing figure passed through the closed door as easily as sunlight through plate glass. The limp fire roared to life as if greeting an old friend, and Scribe was face to face with a terrifying specter.

"Wha \dots what \dots " stammered Scribe, lifting a hand up to shield his eyes.

"Ebenezer."

"Who . . . what are you? Why do you disturb my supper this way?"

"Do you not recognize me, Ebenezer? Look. Whom do you see?"

Scribe looked more carefully into the ghostly glow and made out a familiar face, the face of his long-dead law partner, Jacob Morley. The ghost's eyes were vacant, its expression blank. Yet its torment was evident. The ghost was clenched in chains — an elaborate network of links that bound it in eternal struggle. As Scribe looked closer still, he saw that the chains were made of words: save as hereinbefore otherwise stipulated . . . as duly executed and attested by said party of the first part . . . and by these presents does unconditionally grant, bargain, and sell unto the said party of the second part, to have and to hold, the said chattels, goods, and objects hereof . . .

Scribe mustered his voice again. "My dear Morley. My good partner and colleague. But it can't be. Bah, humbug! My eyes are tricking my brain, and I won't have it. You're nothing more than a figment, the untoward product of a bad morsel of beef."

"Your eyes do not lie, Ebenezer."

"But... but what do you want of me? And why are you so tortured? You were a good, able attorney, and your billables were always high and lucrative for our firm. Why do you come to me in chains?"

"I wear the chains I forged in life — chains made from the boilerplate, archaic language that built a wall of intimidation and confusion between me and my readers. The impenetrable words that forced my clients to beg for an explanation time and again. I'm chained by the countless surplus words, the inflated words, the rote doublets and triplets. I wear the excess, born of laziness and vanity, that tried

[&]quot;Plain Language," edited by Joseph Kimble, has been a regular feature of the Michigan Bar Journal for 41 years. To contribute an article, contact Prof. Kimble at Cooley Law School, 300 S. Capitol Ave., Lansing, MI 48933, or at kimblej@cooley.edu. For an index of past columns, visit www.michbar.org/plainlanguage.

my readers' patience. The words that prevented clarity rather than ensuring it. I wear the chains of *legalese*, now, as I did in life."

"But those words served you well enough, Morley. Why should you regret them now? And why should I abandon what worked for my predecessors — what worked for you? It was good business, wasn't it?"

"Business? Good business? Clarity was my business, Ebenezer. Reader comprehension was my business. Those words didn't serve me well. I made money in spite of them. I chose the perceived safety of the stale status quo rather than striving for better."

"But clarity would dumb it down, Morley," replied Scribe.

"Ebenezer Scribe!" roared the ghost, shaking its chains.

Scribe cowered in his chair.

"Clarity is not dumbing it down. Clarity is smartening it up! Why is it, Ebenezer, that you now use a computer to write, use emails and text messages to correspond, and file briefs electronically — modern advances barely dreamt of while I was alive — yet you continue to write in a style that was already antiquated before World War II? Does that make sense, Ebenezer?"

Scribe gave no answer.

"Tonight, you will be visited by three more spirits, one each hour, starting at the stroke of midnight. Heed their words, Ebenezer — their plain words. See the folly of communicating in ways that inhibit communication."

And with that, Morley's ghost retreated from the room as quickly as it had appeared. Scribe sat in stunned disbelief, his plans for a relaxed dinner now a distant memory.

"Humbug," Scribe murmured, though without his usual conviction. "I must have dozed off for a moment there. Bad beef. Nothing a good night's sleep won't put behind me."

Scribe's sleep passed uneventfully until his bedroom clock started chiming. He stirred and woke. Then he began counting. On the twelfth chime, Morley's prophecy took life. Scribe's room glowed bright, and from the glow came a spirit that flitted and danced like a candle flame. It shifted its shape and face in quick bursts while Scribe looked on, aghast. Grabbing Scribe's trembling hand, it announced, "I'm the Ghost of Writing Past, Scribe. Your past. Come with me."

"But I . . . I don't want to —"

But the ghost whisked Scribe out of the house before he could finish his protest, and within seconds Scribe was a world away, standing beside a young law student who was enjoying a boisterous studygroup session. Scribe was looking at himself nearly 40 years earlier.



Illustration by Dennis Preston

"Spirit, that's me, and this is my law-school apartment! Why, that's my buddy Richard Wilkins and good ol' Jack Robinson. Richard, Jack, how are you, my old friends?"

"They can't hear you, Scribe. But you can hear them. Listen."

"Boy, Professor Fezziwig was really going on and on about that New York Times case today. In a few years, nobody will even remember it," quipped Richard. "Hey, did you read that form contract in our Contracts text, Ebenezer?"

"You don't read it, Richard. You endure it, like a bad movie. It's a monument to terrible writing. Listen to this nonsense: 'It is hereby covenanted and agreed that any claims, disputes, or controversies arising subsequent to the signing of this Agreement and which arise out of or concern the aforestated terms, provisions, or conditions of this Agreement shall be subject to all applicable laws prevailing in the State of Michigan as applied by a court of competent jurisdiction.' What was that lawyer on, anyway?"

"Must've been a Woodstock casualty!" joked Jack, and laughter filled the room.

"How about simply, 'Michigan law governs this contract'?" said the young Ebenezer.

"Well done, Ebenezer!" said Richard, bursting into mock applause.

"Let me tell you, gentlemen, when I get out into practice, I'm going to throw all those stuffy old forms into the garbage can and write new contracts that people can read without getting a headache—that people can actually understand."

"Letting clients understand their own contracts, Ebenezer? Why, then you can't bill them for the extra time it takes to explain what their contracts mean!" More laughter filled the room.

"Those were good days, Spirit. We were going to change the world," said Scribe.

The ghost took Scribe's hand again and led him through the wall. Once beyond it, Scribe found himself back in his bedroom. In a moment, he was in bed and fast to his pillow, asleep. But in a blink, the clock's single chime woke him once more.

Scribe sat up quickly, readying himself. Yet he saw nothing at first. Then Scribe noticed light spilling in under his bedroom door, coming from the parlor. He walked to the door apprehensively and opened it. What he saw was indeed his parlor, but it was transformed — the ceiling double its regular height and the room aglow, as though light in its purest form were raining down from the heavens. Scribe squinted and looked up at an enormous figure. It wore a lush velvet robe with regal trimmings, and a grin lit its whiskered face. When its eyes met Scribe's, it let out a booming laugh that nearly shook Scribe out of his slippers.

"You must be the next spirit come to haunt me," Scribe said.

"Oooh," mocked the spirit, "you are a clever one, Scribe! No wonder your practice is so lucrative. I am the Ghost of Writing Present."

"If you have some wisdom to share with me, Spirit, be on with it. Yet I must say that all I learned from my first visitor was that I was once, like many, a bright young man with lots of big ideas. I still struggle to see why I should abandon the flowery prose that critics love to call *legalese*, as if naming some exotic, fatal disease. If everyone wrote with so-called plain English, we'd have no art — why, we'd have no Shakespeare."

"Are you comparing a zoning ordinance or a contract for the sale of 2,000 ball bearings to Hamlet? To poetry? Those who advocate plain-English legal writing aren't advocating plain Shakespeare, are they, Scribe? Shouldn't parties entering into a contract be able to understand the writing that embodies their business relationship — that spells out their rights and duties? Or should their own rights and duties be kept secret from them? And shouldn't citizens — common, everyday people — have a fighting chance of understanding the statutes and ordinances they're legally bound to follow?"

"But judges and clients expect and demand the flowery language — the legalese. I was just a naive boy to think otherwise," replied Scribe.

"Is that right, Scribe?" And with that, the ghost took Scribe's hand and ushered him out of the house and into the cold night sky. They flew over mountains and lakes until arriving at a large hotel conference facility bustling with activity.

"Where are we, Spirit? I don't know this place."

"No, I wouldn't expect you to, Scribe. This is the Legal Writing Institute's biennial conference, a gathering of legal-writing professors from across the country."

"But what have I to learn from law-school professors?" Scribe wondered aloud to the spirit. "I've been practicing for 36 years."

"Maybe if you'd stop talking you might see," replied the ghost, gesturing to a man who was speaking at a podium in front of a large audience.

My research builds on the existing data. For decades, we've known that judges prefer plain language over legalese. For example, Benson and Kessler's 1987 research showed that appellate judges are likely to consider legalese-filled briefs unpersuasive and substantively weak.\(^1\) Similar surveys between 1987 and 1990 — by Child, Harrington, Kimble, and Prokop — showed that over 80% of responding judges in Michigan, Florida, Louisiana, and Texas preferred plain English.\(^2\) And Flammer's 2010 survey reaffirmed judges' preference for plain language, showing that the majority of responding state and federal judges preferred plain English over legalese.\(^3\)

But my research looked beyond judges to the general public's views on writing style. I surveyed people from all walks of life who've hired and communicated with attorneys. The results confirm what we've suspected for years: the respondents overwhelmingly preferred plain language — choosing the plain-English samples more than 80% of the time. Oh, I see a hand up. Yes?

You've talked about data confirming our suspicions, Professor Trudeau, but did any of the data surprise you?

As a matter of fact, yes, and it concerned well-educated clients. Some lawyers think that their so-called sophisticated clients want inflated language. But the data debunked that notion. In fact, as respondents' education levels increased, so did their preference for plain language. Respondents with less than a bachelor's degree selected the plain-language version 76.5% of the time; those with a bachelor's degree selected it 79.4% of the time; those with master's or doctoral degrees selected the plain-language version 82% of the time; and those with law degrees selected it 86% of the time. This means, for example, that respondents with master's or doctoral

degrees were 5.5% more likely to prefer plain language than those with less than a bachelor's degree.⁴

"But I thought flowery legalese impressed clients, Spirit," said Scribe. "I thought it gave them confidence in my intellect."

"Do intelligent people purposely communicate in ways that hinder communication, Scribe? Do intelligent writers ignore the wishes and needs of their most important readers?"

"But —"

"Who do you think you're impressing, Scribe? Do you honestly believe that a judge who has read thousands of briefs will coo in admiration if you write subsequent to the company's cancellation of said contract instead of after the company canceled the contract? Why would you take on the style of some sort of fourth-rate Dickens while writing briefs about commercial disputes or while drafting contracts or corporate bylaws? Are you writing to serve your reader or yourself?"

The spirit began to chuckle, and then its chuckle gained momentum into a laugh, and then its laughter became deafening. Scribe locked his eyes shut and covered his ears, but the sound only grew louder, as if coming from within his own mind. And then Scribe was again jolted by the clock's chimes — two this time, and then silence.

Scribe opened his eyes. His bedroom was dark and still. But he could just make out a tall robed figure, shrouded in gloom. It spoke not a word. Its hood obscured its face. Scribe could see nothing but the robe itself and a gavel extending from one sleeve.

"You are no doubt the final spirit that Morley told me to expect, the Ghost of Writing Yet to Come. I confess, Spirit, that I fear you most of all. Tell me, What are your plans for me?"

But the phantom said nothing, instead raising its right arm deliberately and pointing its gavel toward the window. And with that, they were thrust outside and into the city's hustle and bustle. Soon Scribe found himself inside an impressive downtown building, standing in a large room with rich mahogany paneling. He knew this place from his litigation work, although he was surprised to see that his favorite judge was memorialized in a painting rather than sitting behind the bench. Then an unfamiliar judge began to speak.

Thank you for your arguments, counsel. I'm ready to rule. To summarize, in an earlier case, the State sued Reliable Construction Company because Reliable damaged State property. When the parties settled, the State signed a "Release and Indemnity" agreement in Reliable's favor. Now Reliable claims that this agreement requires the State to indemnify Reliable for a personal-injury claim arising from the same accident. The State counters that the indemnity agreement is unclear and ambiguous, which allows me to consider parol evidence showing that the parties didn't intend for the agreement to stretch this far.

"I drafted that agreement, Spirit, using an old form. It's ironclad. The State hasn't a leg to stand on," said Scribe with confident glee.

This court agrees with the State and dismisses Reliable's indemnity claim.

Scribe clutched his heart and tottered like a glanced bowling pin.

"But —"

In so ruling, I rely, in part, on the Louisiana case Sanders v Ashland Oil, Inc,⁵ where a contractor likewise sought indemnity from a state agency under an indemnity clause that said this:

We do hereby further agree to indemnify and hold harmless said parties, together with all employees, agents, officers, or assigns thereof of and from any and all further claims and/or punitive damage claims that may be made or asserted by the aforesaid or by anyone because of the aforesaid injuries, damages, loss or expenses suffered as a result of the aforesaid explosion/fire, whether such claim is made by way of indemnity, contribution, subrogation or otherwise.⁶

The Sanders court concluded that this was too unclear, stating, and I quote, "After carefully reviewing the agreement, we conclude that it is neither explicit nor unambiguous. Initially, we note that the agreement is poorly drafted and that the use of legalese, such as 'aforesaid,' makes the meaning of the contract terms unclear."

Reliable's indemnity clause is virtually identical to the confusing, legalese-laden clause in Sanders, and I agree with the court's reasoning in Sanders. I have considered some of the other evidence, and I see that the parties never intended for the State to indemnify Reliable under the present circumstances. Reliable's case is dismissed.

"Reliable is one of my good clients, Spirit. It's not a big company, but it's been with me for years." But the spirit offered no solace or reply — not even a nod. Instead, it raised its gavel again and pointed, and they were soon in another courthouse.

Thank you, counsel. I'm prepared to rule. This is the bank's motion to dismiss its former customer's suit to rescind a loan transaction. The bank relies on a signed "Acknowledgment of Waiver of Right to Rescind" form, which says this:

Whereas more than three (3) business days have elapsed since the undersigned received my/our Notice of Right to Rescind and the Truth-in-Lending Disclosure Statement concerning the transaction identified above; in order to induce aforesaid to proceed with full performance under the agreement in question, the undersigned do herewith warrant, covenant and certify that I/we, jointly and separately, have not exercised my/our Right to Rescind; that I/we do hereby ratify and confirm the same in all respects.

I/we further represent that the undersigned is/are the only person(s) entitled to rescind, in that I/we am/are all of the person(s) who have an ownership interest in the real property or I/we am/are all of the person(s) who will be subject to the security interest in the real property.

I decline to enforce this document because the Truth in Lending Act requires lenders to clearly disclose the terms of a loan, including the right to rescind, and this document is not clear. I rely on cases like Tenney v Deutsche Bank Trust Corp, 8 where the United States District Court refused to enforce a bank's "Certificate of Confirmation of Notice of Right to Rescind," which was virtually identical to the bank's form in the present case. The Tenney court noted that this was "legalese that [was] unnecessarily convoluted and difficult for the average consumer to read." Given the legalese and other misleading circumstances, the court there held that the certificate violated the Truth in Lending Act because it "would confuse and mislead the average consumer." See no difference here. The bank here didn't overreach as much as the bank in Tenney did. Nevertheless, the bank's form is dense, impenetrable boilerplate — classic legalese in the worst sense. Therefore, the bank's motion is denied.

"But Spirit, I drafted that form, too, just as I always have. I don't . . . I don't understand . . . " Scribe's voice trailed off.

"Please tell me, Spirit. Are these the images of court decisions that will be, or court decisions that might be? Oh, Spirit, do I still have time? Do I have time to change my ways — to change my attitudes and techniques? Is there time for me to redraft these documents and others like them? Can I develop the confidence to shed the inflated language that is chaining me as surely as it chained my partner, Morley? To shed the style that shuts out readers rather than inviting them in? Please tell me, Spirit. Tell me. I beg of you," Scribe pleaded, tugging at the bottom of the phantom jurist's robe.

But when Scribe opened his eyes, the mahogany-paneled walls, bench, and pews were gone, as was the terrifying specter. Scribe found himself on his knees on his bedroom's hardwood floor, tugging at the bottom of his bedskirt. A sudden wave of relief hit him. He took in a deep breath and exhaled. The morning sun's friendly rays shone in, and Scribe had the newfound buoyancy of a schoolboy released for recess. He ran to his window and flung it open.

"Young lad," he called to a boy on the sidewalk below. "My good lad, do you know the bookstore around the corner?"

"Of course, sir. It's the last bookstore in town."

"Indeed it is, dear boy. Such a smart lad. And have you seen the books in the window: *Plain English for Lawyers*, by Richard Wydick & Amy Sloan; *Legal Writing in Plain English*, by Bryan Garner; and *Seeing Through Legalese*, by Joseph Kimble?"

"Yes, sir."

"Well, I want you to go buy them all for me, and I'll pay you \$20 to do it. And if you bring them back to me within 10 minutes, I'll throw in an extra \$30!"

"\$50, sir? I'll do it, sir! Right away, sir!"

"Excellent! Then be off with you!" Scribe barked good-naturedly.

"What a wonderful boy. Delightful boy."

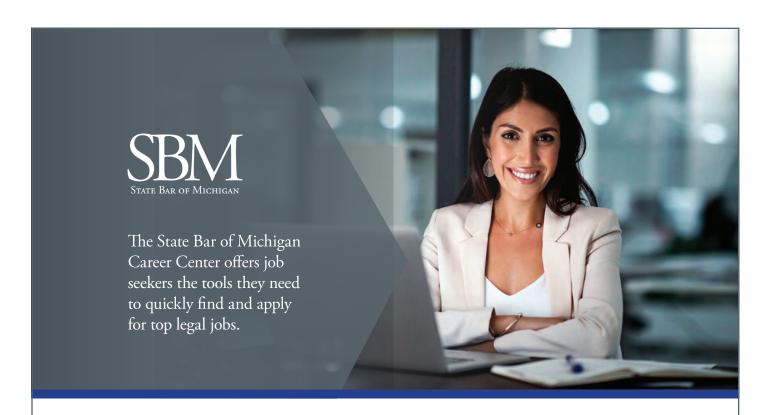
And when the boy returned with the books, Scribe made good on his promise to the boy — and to the spirits. From that day on, Scribe's letters, contracts, and court briefs were pictures of clarity. Clients praised his knack for making the complex seem simple. And Scribe's briefs, with their direct and nimble prose, built a wall of credibility that grew taller with every page. Yes, every day, Ebenezer Scribe was doing the hard work necessary to make his writing easier for readers to understand, and his stock rose with every word.



Mark Cooney is a professor at Cooley Law School, where he teaches legal writing. He is a senior editor of *The Scribes Journal of Legal Writing* and author of the books *The Case for Effective Legal Writing* (with Diana Simon) and *Sketches on Legal Style*. He was co-recipient (with Joseph Kimble) of the 2018 ClearMark Award for legal documents and is a past chair of the SBM Appellate Practice Section.

ENDNOTES

- 1. See Benson & Kessler, Legalese v. Plain English: An Empirical Study of Persuasion and Credibility in Appellate Brief Writing, 20 Loy LA L R 301, 319 (1987).
- 2. Kimble, Lifting the Fog of Legalese (Durham: Carolina Academic Press, 2006), p 13.
- 3. Flammer, Persuading Judges: An Empirical Analysis of Writing Style, Persuasion, and the Use of Plain English, 16 Leg Writing 183, 201 (2010).
- 4. Trudeau, The Public Speaks: An Empirical Study of Legal Communication, 14 Scribes J Legal Writing 121 (2011–2012).
- Sanders v Ashland Oil, Inc, 696 So 2d 1031, 1037 (La App 1 Cir 6/20/1997).
 Id. at 1038.
- 7. Id.
- 8. Tenney v Deutsche Bank Trust Corp, unpublished opinion of the United States District Court for the District of Massachusetts, issued January 26, 2009 (Docket No. 08-40041-FDS).
- 9. *Id.* at *4.
- 10. Id. at *5.



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BEST PRACTICES

Best practices for employers on tribal land

BY JENNIFER SAECKL AND TANYA GIBBS

While economic development in Indian Country is long-standing, American Indian tribes have significantly transformed their participation in the economy, enhancing value and development on reservation lands. Over the past few decades, tribal businesses have evolved into self-sustaining, sovereign entities that support their members and nations. Tribal businesses have also attracted significant investment from non-tribal entities, further developing tribal economies. These entities are involved in gaming, tourism, gas stations and convenience stores, investment firms, and financial businesses, to name a few. The expansion of tribal and non-tribal businesses on tribal land — that is, land owned by a tribe, either in fee simple or as held in trust by the U.S. government for the benefit of the Tribe — has strengthened self-determination and sustainability.

Within Michigan, there are 12 federally recognized American Indian tribes, including

- Bay Mills Indian Community
- Grand Traverse Band of Ottawa and Chippewa Indians
- Hannahville Indian Community
- Keweenaw Bay Indian Community
- Lac Vieux Desert Band of Lake Superior Chippewa Indians
- Little River Band of Ottawa Indians
- Little Traverse Bay Band of Ottawa Indians
- Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians ("Gun Lake Tribe")

- Nottawaseppi Huron Band of Potawatomi Indians
- Pokagon Band of Potawatomi Indians
- Saginaw Chippewa Indian Tribe
- Sault Ste. Marie Tribe of Chippewa Indians

Tribal land is situated throughout Michigan, from the five federally recognized tribes on the Upper Peninsula (Bay Mills Indian Community, Hannahville Indian Community, Keweenaw Bay Indian Community, Lac Vieux Desert Band of Lake Superior Chippewa Indians, and Sault Ste. Marie Tribe of Chippewa Indians), to the three tribes in Northwest Michigan (Grand Traverse Bay Band of Ottawa and Chippewa Indians, Little River Band of Ottawa Indians, and Little Traverse Bay Band of Ottawa Indians), to the two tribes in Southwest Michigan (Pokagon Band of Potawatomi Indians and Nottawaseppi Huron Band of Potawatomi Indians), to the final two tribes located in East Central Michigan (Saginaw Chippewa Indian Tribe) and West Michigan (Gun Lake Tribe). Tribes in Michigan are big employers through governmental administration, casino, and non-gaming economic development opportunities. They also continue to expand, providing more and more opportunities for partnerships and development.

As businesses and entities working on tribal land continue to grow, they also continue to attract more talent and expand their workforces. For non-tribal entities entering into contracts on tribal land for the first time, it is important to understand key nuances in working with tribal partners and operating on tribal land. This article seeks to provide some basic information on these nuances and suggestions for best practices for both tribal and non-tribal employers operating on tribal land.

[&]quot;Best Practices" is a regular column of the Michigan Bar Journal edited by George Strander of the Michigan Bar Journal Committee. To contribute an article, contact Mr. Strander at gstrander@yahoo.com.

TRIBAL, FEDERAL, AND STATE LAW

Any employer considering working on tribal land should understand the basics of tribal sovereignty, self-governance, and law-making. These principles of self-determination influence the legal and operational framework for organizations conducting business on tribal land. As sovereign entities, tribes and their instrumentalities possess sovereign immunity unless explicitly waived by the tribe or abrogated by Congress.\(^1\) Non-tribal employers should consult legal counsel with expertise in federal Indian law to ensure compliance and understand applicable waivers.

Navigating applicable laws on tribal land is more complex than on non-tribal land. Typically, on tribal land, tribal law applies, and Michigan state law generally does not apply. In some circumstances and where land is owned by a tribe in fee simple rather than in trust, states may have additional reach in applying their laws, particularly where the employer is not a wholly owned tribal entity. Any non-tribal employer working on tribal land should make sure it has a strong understanding of the jurisdictional import of laws in their context.

For non-tribal employers, federal laws generally apply. However, the application of federal law to tribal employers is a bit more complex: Some laws, such as § 701(b) of Title VII of the Civil Rights Act of 1964,² clearly excludes tribes from application of the employment discrimination law, and § 101(5)(b) of the Americans with Disabilities Act of 1990³ clearly exclude tribes from Title I of the law, which governs the reasonable accommodation process in the workplace for employees with disabilities. However, the applicability of certain federal laws to tribal employers remains unclear and varies across the country.⁴ To deal with this ambiguity, a tribe may have laws or regulations in place that are consistent with federal law, and thus the question of federal law compliance is less pertinent. Tribal law may also cover gaps where otherwise inapplicable state law typically operates, tailored to suit the particular tribe.

The application of federal employment laws on tribal land is therefore complicated. All employers working on tribal land should work with an attorney to ensure they understand the jurisdictional land-scape they may be subject to. Even more importantly for non-tribal employers, it is important to understand that they may be subject to more laws (i.e., state or federal laws) that are not contemplated by tribal employment laws. These employers should consult legal counsel to ensure compliance with the most stringent applicable laws.

Thus, parties operating businesses and employing workers on tribal land should consider the contours of tribal sovereignty, including, most pertinently, the application of tribal sovereign immunity, and the interplay of tribal, state, and federal employment laws.

HIRING AND INDIAN PREFERENCE

As discussed above, tribes and their arms and instrumentalities are

typically exempt from laws that require nondiscrimination, such as Title VII of the Civil Rights Act of 1964. Tribes may enact laws or policies that prioritize employment for tribal citizens, other American Indian employees, or their spouses and dependents. Non-tribal businesses subject to federal laws may also adopt American Indian employment preferences under specific conditions. Generally, these employers must be on or near a reservation and must publicly announce an employment preference for American Indians in that area.⁵

Many tribes enact a Tribal Employment Rights Ordinance (TERO) and create a tribal office that governs concerns under this type of tribal law. These laws often require contractors working on tribal land to register with the tribal office and submit compliance plans detailing how they will comply with Indian preference requirements.

Employers on tribal land should review tribal law to determine whether an Indian preference or TERO law applies and assess whether adopting a similar policy aligns with their operations.

CULTURAL UNDERSTANDING

It is important to understand that traditional and cultural practices play a large role in many tribal employment policies and procedures that may be applicable to employers on tribal land. For example, tribes may take different holidays than non-tribal employers, such as holidays that recognize a certain tribe's federal recognition or holidays that celebrate tribes on a state or national level.

Many tribal businesses incorporate cultural teachings, such as the Seven Grandfathers, into their mission, vision, and corporate philosophy. These teachings are regularly used by the governing body to evaluate management and make decisions on how to move the organization forward. Cultural practices often shape workplace environments. These may include traditional opening ceremonies, land acknowledgments before meetings, or team-building activities centered on tribal teachings.

RELATIONSHIP BUILDING

Many tribes and tribal businesses put an emphasis on relationship-building. Non-tribal entities should prioritize cultivating authentic, trust-based relationships with tribal governments, businesses, employees, and community members. This may be accomplished through partnerships with other tribal-owned businesses, attending cultural events such as pow-wows, attending charitable events, and encouraging employees to participate in and assist with cultural events.

Engaging in business on tribal land fosters mutually beneficial partnerships between tribes and non-tribal entities. However, working on tribal land requires businesses to be aware of the unique cultural, legal, and jurisdictional landscape that is involved with working on a tribe's territory. Businesses on tribal Land should collaborate with tribal partners and knowledgeable advisors to ensure compliance with tribal law while fostering effective community partnerships.



Tanya Gibbs is a citizen of the Little Traverse Bay Bands of Odawa Indians. Ms. Gibbs' practice is primarily focused on non-gaming economic development. She represents tribally owned companies involved in various businesses ranging from e-commerce to real estate development. Ms. Gibbs is passionate about corporate governance and has helped many of her clients draft tribal laws that create a framework for the development, creation, and operation of tribal business enterprises consistent with current best practices and tailored to meet the needs of their community. She has closed nearly \$1 billion in financial

transactions for both gaming and non-gaming businesses. She is experienced in a variety of transactional work, including corporate structuring of tribally owned companies, corporate governance, contract negotiation, structuring financial transactions, mergers and acquisitions, and real estate financing and development. She also helps clients with gaming transactions, healthcare matters, and housing development and financing.



Jennifer Saeckl is of counsel with Mshkawzi Law, LLP. As Ms. Saeckl is licensed to practice in both the State of Michigan and the Province of Ontario, she advises both Indigenous Nations in Canada and Native American Tribes in the United States on domestic concerns as well as cross-border issues. Specifically, Ms. Saeckl works with her clients on many U.S. and Canadian business issues, focusing her practice especially on labor & employment law issues. She has drafted legislation, regulation, policy, and procedure on behalf of Indigenous governmental departments and has

participated in both transactional and litigation matters. Among other things, Ms. Saeckl has helped Indigenous nations and tribes, and their businesses, navigate U.S., Canadian, and tribal employment and labor law and helps her clients oversee their hiring and termination practices, as well as day-to-day employment issues.

ENDNOTES

- 1. Mich v Bay Mills Indian Community, 572 US 782, 788-790; 134 S Ct 2024; 188 L Ed 2d 1071 (2014).
- 2. 42 USC § 2000e et seq.
- 3. 42 USC § 12101 et seq. (exempting tribes from Title I obligations).
- 4. In most cases, federal employment laws do not explicitly state whether they apply to Indian tribes. When this happens, the law is known as a law of general applicability. Courts are divided on how these laws apply to tribes. The Ninth and Second Circuits generally hold that a statute applying to "all persons" includes tribes unless it interferes with exclusive rights of self-governance or treaty rights, or if legislative history suggests otherwise. Fed Power Comm v Tuscarora Indian Nation, 362 US 99, 116; 80 S Ct 543; 4 L Ed 2d 584 (1960); Donovan v Coeur d'Alene Tribal Farm, 751 F2d 1113, 1116 (CA 9, 1985). See also Reich v Mashantucket Sand & Gravel, 95 F3d 174 (CA 2, 1996). However, in the Tenth and Eighth Circuits, courts typically hold that "the proper inference from silence" is that a law does not apply to undermine tribal sovereignty. Merrion v Jicarilla Apache Tribe, 455 US 130; 10 S Ct 894; 71 L Ed 2d 21 (1982); Iowa Mut Ins Co v LaPlante, 480 US 9; 107 S Ct 971; 94 L Ed 2d 10 (1987); Donovan v Navajo Forest Prods Indus, 692 F2d 709 (CA 10, 1982); EEOC v Fond du Lac Heavy Equip & Constr Co, 986 F.2d 246 (CA 8, 1993). Finally, the Seventh Circuit takes an approach that mixes both tests. Reich v Great Lakes Indian Fish & Wildlife Comm, 4 F3d 490 (CA 7, 1993); Menominee Tribal Enterprises v Solis, 601 F3d 669 (CA 7, 2010). Since the Supreme Court has not provided definitive guidance, tribes remain in legal uncertainty regarding the application of federal laws of general applicability.
- 5. Under federal law, 42 USC § 2000e-2(i) allows employers to implement Indian preference policies under specific conditions.
- 6. For an introduction to the values encompassed by the Seven Grandfathers, see, e.g., Seven Grandfather Teachings, Nottawaseppi Huron Band of the Potawatomi https://nhbp-nsn.gov/seven-grandfather-teachings/ (accessed October 03, 2025).

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HOT TOPICS

Sentencing youth in Michigan: Age matters

BY MARLIENA DAVID AND TINA OLSON

Michigan has the unfortunate distinction of having the highest juvenile lifer population in the nation. A recent Michigan Supreme Court decision have expanded constitutional protections for youth sentenced to mandatory life without parole, meaning that decades of mandatory life without parole sentences have produced hundreds of unconstitutional sentences against Michigan's youth. The Court's 5-2 decision in *People v Czarnecki*² and *People v Taylor*³ followed a series of United States Supreme Court decisions recognizing that — for sentencing purposes — "children are different."⁴

EVOLVING STANDARDS OF DECENCY

To understand where we are now with youth resentencing in Michigan, we must begin with Atkins v Virginia (2002). 5 Daryl Atkins was convicted of abduction, armed robbery, and capital murder for crimes committed when he was 17 years old. When he was 18, he was sentenced to death. In support of the death penalty, the prosecutor argued "future dangerousness" and pointed to other felonies Atkins had committed. 6 The defense relied on the testimony of a forensic psychologist who concluded that Daryl was "mildly mentally retarded" and had an IQ of 59.7 In 2002, the United States Supreme Court reversed Daryl's death sentence and held that the Eighth Amendment's prohibition against cruel and unusual punishment prevents use of the death penalty against the "mentally retarded."8 The Court reasoned that the legal justifications recognized as a basis for the death penalty (retribution and deterrence) do not apply to the "mentally retarded," who have "lesser culpability"10 due to their cognitive limitations. The Court limited the "death penalty to a narrow category of the most serious crimes" reserved for "the most deserving of execution."11

In 2005, the U.S. Supreme Court in *Roper v Simmons*¹² considered the constitutionality of executing children under 18. Christopher Simmons was 17 years old when he and a friend committed a callous burglary, kidnapping, and murder. Christopher was sentenced to death. The Court considered the constitutionality of such a sentence: "'the evolving standards of decency that mark the progress of a maturing society' to determine which punishments are so disproportionate as to be cruel and unusual." The Court found that society views juveniles "as 'categorically less culpable than the average criminal." Relying on its holding in *Atkins*, the Court held that the death penalty for those 17 and under is cruel and unusual and violates the Eighth Amendment.

In 2010, the U.S. Supreme Court in *Graham v Florida*¹⁶ held that sentencing a child under 18 to life without parole for a non-homicide offense is unconstitutional. At 16, Terrance Graham was involved in two attempted robberies that violated his probation. He was sentenced to life in prison without the possibility of parole. The Court recognized that "life without parole is 'the second most severe penalty permitted by law'"¹⁷ and "is an especially harsh punishment for a juvenile."¹⁸ Recognizing a child's capacity for change and that they are "most . . . receptive to rehabilitation"¹⁹ in their youth, the Court imposed a categorical ban on life without parole for non-homicide offenses committed by those under 18.

In 2012, in *Miller v Alabama*, ²⁰ the Court continued to build upon this body of law when it ruled that *mandatory* life without parole for those under 18 at the time of the offense violates the Eighth Amendment. At age 14, Evan Miller was convicted of murder after he and

his friend beat a man and set fire to his trailer, causing the victim to die from injuries and smoke inhalation. Evan was sentenced to life without the possibility of parole. The defense argued this sentence was cruel and unusual, relying on *Roper* and *Graham*. The Supreme Court agreed, noting that those holdings were based not in common sense, but on undisputed scientific studies that establish adolescents are more prone to rash behavior and are unable to assess consequences.²¹ The nature of the adolescent brain, therefore, establishes that "children are different"²² and have "diminished culpability and heightened capacity for change"²³ when compared to adults. These "differences counsel against irrevocably sentencing them to a lifetime in prison"²⁴ without first considering the mitigating qualities of youth.

The mitigating factors (Miller factors) that must be considered before determining if life without parole is a constitutional sentence for a child 17 and under include (1) the "hallmark features" of youth, such as a child's "immaturity, impetuosity, and failure to appreciate risks and consequence";²⁵ (2) the "family and home environment . . . from which [a child] cannot usually extricate";²⁶ (3) "the circumstances of the homicide offense, including the extent of his participation in the conduct and the way familial and peer pressures may have affected"²⁷ the child; (4) "incompetencies associated with youth,"²⁸ such as the "inability to deal with police officers or prosecutors . . . or [a child's] incapacity to assist his own attorneys";²⁹ and (5) "the possibility of rehabilitation . . . when the circumstances most suggest it."³⁰

In 2016, the Court in *Montgomery v Louisiana*³¹ held that *Miller* was a substantive change in law, and therefore applied retroactively, entitling thousands of people in the country to resentencing.

NEW LINES ARE DRAWN

In 2022, the Michigan Supreme Court in People v Parks³² considered whether Miller's holding extended to 18-year-olds. The Court recognized that the Court in Roper, Graham, and Miller drew a clear line in its holding between what society viewed as children (those under 18) and adults (18 and older).³³ And the Court in Jones v Mississippi "recently indicated that states have a wide latitude in providing greater Miller protections,"34 allowing states to draw their own lines. The Court noted that Michigan's constitutional prohibition against "cruel or unusual punishment"35 is broader than the federal constitution's prohibition against "cruel and unusual punishment,"36 and that sentencing in Michigan is dictated by the Court's long-standing "principle of proportionality." 37 "Therefore, in addition to protections guaranteed under the Eighth Amendment, Michigan's Constitution has historically afforded greater bulwarks against barbaric and inhumane punishments."38 Referencing the same adolescent brain development science relied upon in Roper, Graham, and Miller, and recognizing that that scientific research applies to young adults "up to the age of 25,"39 the Michigan Supreme Court drew its own line, holding that mandatory life without parole for those 18 and under violated Michigan's constitution.⁴⁰ Given that Mr. Parks was 18 at the time of the crime, the Court limited its opinion to 18-year-olds.

The need to address the constitutionality of sentencing for people over the age of 18 came earlier this year (2025) in *People v Czarnecki* and *People v Taylor*.⁴¹ Andrew Czarnecki was charged with homicide when he was 19 years old, and Montario Taylor was charged with homicide when he was 20 years old. Both were sentenced to mandatory life without parole. In the Michigan Supreme Court's combined opinions in *Czarnecki* and *Taylor*, the Court found that, with respect to neurological development and culpability, there are no meaningful differences between those who are 18 years old and those who are 19 or 20 years old.⁴² The Court held that their mandatory life sentences were unconstitutional.

This decision was held to be retroactive, meaning that nearly 600 people in Michigan who were 19- and 20-years old at the time of the homicide offense and sentenced to mandatory life without parole are entitled to resentencing.

In Michigan, a mandatory life without parole sentence for anyone under age 21 is now unconstitutional. Instead, sentencing courts are required to consider mitigating evidence regarding youth and rehabilitation before imposing a sentence, which could be life without parole, but could also be a term of years sentence that could result in a future parole.

These new Michigan cases help close a gap left by the U.S. Supreme Court. Under existing U.S. Supreme Court precedent, a "child" is defined as a person 17 years old or younger. However, adolescent brain development research draws no such bright line. Brain development scientists agree that developmental characteristics contributing to diminished culpability and increased potential for rehabilitation extend through childhood and all stages of adolescence — early (ages 10 to 13), middle (ages 14 to 17), late (ages 18 to 21), and even extended adolescence (through age 25). In other words, the human brain is not fully developed until age 25.43 Why then should a 19-year-old be required to receive a mandatory life sentence if an 18-year-old cannot?⁴⁴ This was recognized by Justice Bernstein in Czarnecki and Taylor who, in a partial dissent, disagreed with drawing a bright-line rule for those under 21. Justice Bernstein noted that the Court should follow the "scientific studies that serve as the foundation" for the Court's holding and apply this ruling more broadly to those under age 25.45

RESENTENCINGS IN MICHIGAN

The process of correcting unconstitutional mandatory life without parole sentences is nothing new in Michigan. Youth resentencings have been ongoing since 2016 following *Montgomery*, when nearly 365 Michiganders were entitled to resentencing. Starting

in 2016 through the present day, advocates in the Michigan State Appellate Defender Office's Juvenile Lifer Unit began representing approximately 200 people entitled to resentencing. Private practitioners, many of whom serve on the Michigan Appellate Assigned Counsel System roster, pro bono counsel, and trial-level public defenders, represented dozens of others. The resentencing process in 2016 began just as it will for the new group of people entitled to resentencing under *Czarnecki* and *Taylor*.

The process begins with prosecutors deciding whether they want to seek life without parole again, or whether they're agreeable to a term of years. If the prosecutor chooses to seek a life without parole sentence, there will be a Miller hearing — a multi day evidentiary hearing where evidence of the previously discussed "Miller factors" is put before the judge. Prosecutors tend to focus on the circumstances of the offense as a factor that favors a life without parole sentence and may point to prison misconduct records to argue a lack of rehabilitation. By contrast, the defense typically focuses on factors that provide context to the circumstances of the offense, such as family and home environment, and on positive prison records, such as programming, education, and employment the person has taken part in while in prison. Depending on the case, reports from experts including forensic psychologists, neuropsychologists, correctional experts, and adolescent brain development experts, can also be key. Victim family members are also afforded an opportunity to address the court prior to sentencing.

The resentencing process focuses on the factors discussed above, and it begins with a legal presumption that a life without parole sentence is disproportionate and unconstitutional when imposed against a young person. ⁴⁶ It is the prosecutor's burden to overcome that presumption by clear and convincing evidence before a court may legally reimpose life without parole. ⁴⁷

If a person is resentenced to a term of years, after serving at least the minimum term, the Michigan Parole Board determines whether a person has been rehabilitated and can safely return home to the community. Keeping people incarcerated who could safely return to the community is expensive; it costs the state more than \$50,000 per person, per year to keep someone incarcerated.⁴⁸ Since 2016, over \$94 million dollars in incarceration costs have been saved as a result of only a portion of resentencings conducted by the State Appellate Defender Office.⁴⁹

Over the next few years, Michigan courts will revisit hundreds of sentences imposed under the former mandatory life without parole scheme. Although many people who were under 18 at the time of their offense have been resentenced, more than 800 people in Michigan remain incarcerated under unconstitutional mandatory life without parole sentences for crimes committed when they were 18, 19, and 20 years old.

The Michigan Supreme Court's decisions may not only be principled in theory but may also be effective in practice. The over-

whelming majority of the people who have returned to their families and communities since 2016 have not recidivated. Studies of released juvenile lifers in Michigan, Pennsylvania, Maryland, New York, and California "find recidivism rates less than 5% among people who previously committed violence and were sentenced to life," and that "people released from prison who were originally convicted of homicide are less likely than other released prisoners to be arrested for a violent crime." This is in stark contrast with Michigan's current recidivism rate for all released prisoners, which is 21%. These outcomes reinforce what the research suggests: young people who commit crimes overwhelmingly do not grow up to be adults who commit crimes. In light of the Michigan Supreme Court's decision, courts must assess all of these mitigating factors in the resentencing hearings that lie ahead.



Marilena David is the Director at the State Appellate Defender Office. Marilena led and launched SADO's Project Reentry, which is primarily focused on supporting juvenile lifers on their journey home from prison. Marilena was appointed by the Michigan Supreme Court to serve on the Michigan Judicial Council, and she recently received the Champion of Justice Award from the State Bar of Michigan. Marilena is past Chair of the SBM Prisons & Corrections Section.



Tina Olson is the Managing Attorney in the Juvenile Lifer Unit at the State Appellate Defender Office. Previously, she was the Chief Appellate Counsel for the Wyoming Office of the State Public Defender. Tina is a member of the State Bar of Michigan, the Wyoming State Bar, the SBM Prisons & Corrections Section, and serves on the ICLE Criminal Law Advisory Board. She is admitted to practice in the Supreme Court of the United States.

ENDNOTES

- 1. Juvenile Life Without Parole by State, The Campaign for the Fair Sentencing of Youth Youth Youth-shiftps://cfsy.org/ (all websites last accessed October 31, 2025); Ending Juvenile Life without Parole (JL-WOP) in Michigan, The Campaign for the Fair Sentencing of Youth Https://cfsy.org/ending-juvenile-life-without-parole-jlwop-in-michigan/#:~:text=Michigan%20has%20the%20largest%20population,/HB%204160%2D64%20here.>
- 2. People v Taylor and People v Czarnecki, ___ Mich ___; ___ N W 3d ___ (2025) (Docket Nos. 166428 and 166654).
- 3. Id.
- 4. Miller v Alabama, 567 US 460, 480; 132 S Ct 2455; 183 L Ed 2d 407 (2012).
- $5. \ \textit{Atkins v Virginia}, \ 536 \ \text{US} \ 304; \ 122 \ \text{S} \ \text{Ct} \ 2242; \ 153 \ \text{L} \ \text{Ed} \ 2d \ 335 \ (2002).$
- 6. Id. at 308.
- 7. Id. at 308-309.
- 8. Id. at 321.
- 9. Id. at 318-319.
- 10. *Id.* at 319.
- 11. *Id.*
- 12. Roper v Simmons, 543 US 551; 125 S Ct 1183; 161 L Ed 2d 1 (2005).
- 13. Id. at 561 (citations omitted).
- 14. Id. at 567 (citations omitted).
- 15. Roper, supra n 13.
- 16. Graham v Florida, 560 US 48; 130 S Ct 2011; 175 L Ed 2d 825 (2010).
- 17. Id. at 69.

- 18. Id. at 70.
- 19. Id. at 74.
- 20. Miller, supra n 5.
- 21. Id. at 472.
- 22. Id. at 480.
- 23. Id. at 479.
- 24. Id. at 480.
- 25. Id. at 477.
- 26. ld.
- 27. ld.
- 28. ld.
- 29. Id. at 477-478.
- 30. Id. at 488.
- 31. Montgomery v Louisiana, 577 US 190, 208; 136 S Ct 718; 193 L Ed 2d 599 (2016).
- 32. People v Parks, 510 Mich 225; 987 NW2d 161 (2022).
- 33. Id. at 247
- 34. *Id.* at 247 citing *Jones v Mississippi*, 593 US 98, 120; 141 S Ct 1307; 209 L Ed 2d 390 (2021).
- 35. Const 1963, art 1, § 16 (emphasis added).
- 36. US Const, Am VIII (emphasis added).
- 37. Parks, supra n 33.
- 38. Id. at 243.
- 39. Id. at 244.
- 40. In People v Poole, ___ Mich ___; __ NW3d ___ (2025) (Docket No. 166813) the Court held that Parks was retroactive.

- 41. Taylor, supra n 3.
- 42.Id. at slip op 10.
- 43. This point is well recognized in other domains. For example, according to the National Highway Traffic Safety Administration, drivers who are younger than 25 are significantly more likely to get into accidents than older drivers; that is why rental car companies often impose "young driver fees" if they do not outright prohibit rentals to drivers under age 25. Young Drivers, National Highway Traffic Safety Administration https://www.nhtsa.gov/book/countermeasures-that-work/young-drivers.
- 44. The Michigan Supreme Court previously applied *Miller's* holdings to those aged 18 at time of offense. See *Parks*, *supra* n 33. This too was held to be retroactive.
- 45. Taylor, supra n 3 (BERNSTEIN, J., concurring in part, dissenting in part); slip op at 2-3.
- 46. People v Taylor, 510 Mich 112; 987 NW2d 132 (2022).
- 47. ld.
- 48. Riehle, Michigan Department of Corrections Reports New Historic Low in State's Recidivism Rate, Department of Corrections (July 02, 2025) historic-low.
- 49. Sado Juvenile Lifer Unit Report: 2024, State Appellate Defender Office https://www.sado.org/content/pub/12182_2024-Juvenile-Lifer-Unit-Appropriations-Report.pdf.
- 50. No End in Sight: America's Enduring Reliance on Life Imprisonment, The Sentencing Project (2021) https://www.sentencingproject.org/app/uploads/2022/08// No-End-in-Sight-Americas-Enduring-Reliance-on-Life-Imprisonment.pdf>; see also Prescott, Pyle, & Starr, Understanding Violent-Crime Recidivism, 95 Notre Dame L Rev 1643 (2020). 51. Riehle, supra n 49.

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ORDERS OF DISCIPLINE & DISABILITY

DISBARMENT AND RESTITUTION

Robert A. Canner, P11572, Southfield. Disbarment, Effective April 16, 2025.

Based on the evidence presented to Tri-County Hearing Panel #59 at hearings held in this matter in accordance with MCR 9.115, the hearing panel found that respondent committed professional misconduct by intentionally misappropriating clients' funds, failing to keep two separate clients properly informed as to the status of their matters, and failing to protect another client's interest at the conclusion of his representation.

Specifically, the panel found that respondent violated MRPC 1.4(a) by not keeping clients reasonably informed and promptly complying with requests for information [Counts Two and Three]; MRPC 1.5(a), by collecting an excessive fee [Counts One and Two]; MRPC 1.5(c), by failing to put a contingent-fee agreement in writing, and failing to state the method by which the fee is to be determined [Count Two]; MRPC 1.15(b)(3), by failing to promptly pay funds to various clients who were entitled to the funds [Counts One, Two, and Three]; MRPC

1.15(d), by failing to hold property of clients or third persons in connection with a representation separate from his own property [Counts One, Two, and Three]; MRPC 1.15(f), by failing to deposit his own funds in a client trust account only in excess of an amount reasonably necessary to pay financial institution service charges or fees or to obtain a waiver of service charges or fees [Count One]; MRPC 1.16(d), by failing upon termination of representation, to take reasonable steps to protect a client's interests [Count Two]; MRPC 8.4(a) and MCR 9.104(4), by engaging in conduct that violates the standards or rules of professional conduct [Counts One, Two, and Three]; MRPC 8.4(b), by engaging in conduct involving dishonesty, fraud, deceit, misrepresentation, or violation of the criminal law, where such conduct reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer [Counts One, Two, and Three]; MCR 9.104(2), by engaging in conduct that exposes the legal profession or the courts to obloquy, contempt, censure, or reproach [Counts One, Two, and Three]; and MCR 9.104(3), by engaging in conduct that is contrary to justice, ethics, honesty, or good morals [Counts One, Two, and Three].

The panel ordered that respondent be disbarred, effective April 16, 2025, and that he pay restitution totaling \$59,836.00. Costs were assessed by the panel in the amount of \$3,880.08.

On April 14, 2025, respondent timely filed a petition for review. After proceedings pursuant to MCR 9.118, the Board affirmed the hearing panel's Order of Disbarment and Restitution in its entirety. Additional costs of \$192.50 were assessed by the Board for the review hearing conducted on July 9, 2025, bring the total costs assessed in this matter to \$4,096.84.

- 1. The panel made numerous findings of misconduct against respondent and found that many other rules were violated in Counts One through Three. However, in that respondent is only challenging the sanction imposed, we find it unnecessary to recite an exhaustive list of all of the panel's findings in that regard. Further, the panel did dismiss Counts Four and Five of the formal complaint, finding that the allegations in Count Four were redundant of the other charges and that the Grievance Administrator did not establish misconduct in Count Five. The Grievance Administrator has not sought review of the dismissal of those counts.
- 2. In *Lawrence*, the Court reversed the Board's order increasing discipline from a 100-day suspension to disbarment, affirming the restitution provision and vacating the conditions imposed by the hearing panel and reinstated the hearing panel's order of a 100-day suspension and restitution with condition, for conduct that violated MRPC 1.15(b)(3), (d) and (g); MRPC 8.4(b) and MCR 9.104(1)-(3).
- 3. ABA Standards 9.32(a) absence of a prior disciplinary history; 9.32(d) good faith timely efforts to make restitution; 9.32(e) full and free disclosure to a disciplinary agency; and 9.32(g) evidence of good character or reputation.

4 ABA Standard 4.61 states that:

disbarment is generally appropriate when a lawyer knowingly deceives a client with the intent to benefit the lawyer or another, and causes serious injury or potential serious injury to a client.

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ABA Standard 5.11 states that:

(a) disbarment is generally appropriate when a lawyer engages in serious criminal conduct, a necessary element of which includes intentional interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; or the sale, distribution or importation of controlled substances; or the intentional killing of another; or an attempt or conspiracy or solicitation of another to commit any of these offenses; or, (b) a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.

ABA Standard 7.1 states that:

disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system.

INTERIM SUSPENSION PURSUANT TO MCR 9.115(H)(1)

Daniel Reid Casey, P75533, Sault Ste. Marie. Interim Suspension — Effective October 17, 2025.

Respondent failed to appear before Emmet County Hearing Panel #2 for the October 9, 2025 hearing, and satisfactory proofs were entered into the record that he possessed actual notice of the proceedings. As a result, the hearing panel issued an Order of Suspension Pursuant to MCR 9.115(H)(1) [Failure to Appear], effective October 17, 2025, and until further order of the panel or the Board.

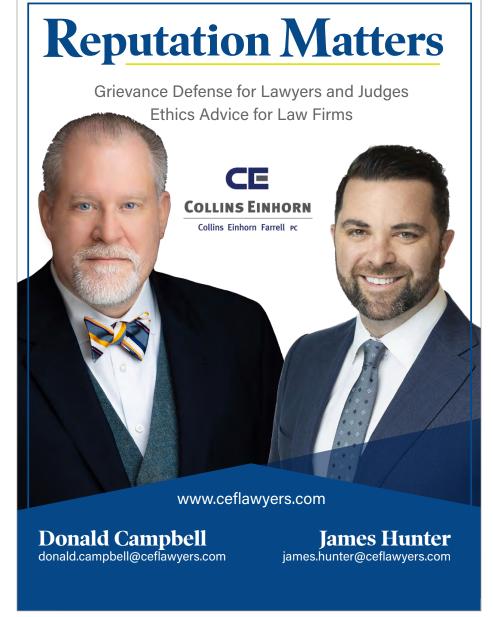
SUSPENSION (BY CONSENT)

Amy Lillian Colston, P64742, Kalamazoo. Suspension — One Year, Effective October 25, 2025.

The Grievance Administrator filed a notice of filing of reciprocal discipline pursuant to MCR 9.120(C) that attached certified copies of orders entered by the Supreme Court of the State of New York Appellate Division, Fourth Judicial Department on October 25, 2017, and February 2, 2018, that suspended respondent's license to practice law in New York on an interim basis as a result of her conviction, effective October 25, 2017, and then for one year, effective October 25, 2017, respectively, in matters titled Matter of Amy Vichinsky, an Attorney and Matter of Amy Vichinsky, a Suspended Attorney, Respondent, Grievance Committee of the Seventh Judicial District, Petitioner. The notice also attached a certified copy of an order entered by the Supreme Court of California on February 13, 2020, that disbarred respondent from practicing law in the State of California, effective March 15, 2019, in a matter titled In re Amy Lillian Vichinsky, SBC-19-N-30499; SBC-19-O-30501.1

Respondent and the Grievance Administrator filed a stipulation for consent order of discipline, in accordance with MCR 9.115(F)(5), which had been approved by the Attorney Grievance Commission. After reviewing the parties' stipulation, Kalamazoo County Hearing Panel #2 communicated in writing to the parties pursuant to MCR 9.115(F)(5)(c)(ii) that it had questions for the Grievance Administrator relative to the stipulation; counsel for the Grievance Administrator filed a response. The hearing panel considered the stipulation as well as the additional information provided, and concluded that the parties' agreement was reasonable and consistent with the goals of these discipline proceedings.

Based upon the certified copies of the order of one-year suspension issued by the Supreme Court of the State of New York Appellate Division, the order of disbarment issued by the Supreme Court of the State of



ORDERS OF DISCIPLINE & DISABILITY (CONTINUED)

California, and respondent's acknowledgments as set forth in the stipulation of the parties, the panel found that respondent committed misconduct, as set forth in MCR 9.120(C)(1), and ordered that respondent's license to practice law in Michigan be suspended for a period of one-year, effective October 25, 2025, as agreed to by the parties and accepted by the panel. Total costs were assessed in the amount of \$1,115.58.

- 1. In the 2018 New York matter and the 2020 California matter, respondent's last name at the time was Vichinsky; however, her State Bar of Michigan record indicates her last name is now Colston.
- 2. On July 11, 2024, respondent filed a motion to extend the deadline for her response to the imposition of reciprocal discipline. The motion was granted on August 28, 2024, and respondent was given an additional 21 days in which to file her response.
- 3. The hearing on discipline was rescheduled for June 16, 2025. Just prior to the commencement of the hearing, the parties' stipulation was filed. As a result, the panel adjourned the hearing after a brief discussion on the record, so that they could review the stipulation. (Tr 6/16/25, pp 6-9.)

SUSPENSION AND RESTITUTION WITH CONDITION (BY CONSENT)

Zachary Hallman, P78327, Dearborn. Suspension — 30 Days, Effective December 1, 2025.¹

Respondent and the Grievance Administrator filed a Stipulation for Consent Order of Discipline pursuant to MCR 9.115(F)(5), which was approved by the Attorney Grievance Commission and accepted by Tri-County Hearing Panel #17. The stipulation contained respondent's admissions to the factual allegations and allegations of professional misconduct in the formal complaint, namely that respondent, after filing a complaint on behalf of a client in a wrongful termination/employment discrimination case, failed to serve the complaint on the named defendant, which resulted in the court dismissing the case without prejudice and denying a subsequent motion to reinstate. Respondent also filed a claim of

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appeal on behalf of the client, which was dismissed because it was not timely filed.

Based upon respondent's admissions and the parties' stipulation, the panel found that respondent: failed to provide competent representation to his client, in violation of MRPC 1.1(a); neglected a legal matter entrusted to him, in violation of MRPC 1.1(c); failed to seek lawful objectives of client, in violation of MRPC 1.2(a); failed to act with reasonable diligence and promptness in representing a client, in violation of MRPC 1.3; failed to keep a client reasonably informed about the status of a matter and, or failed to comply promptly with reasonable requests for information, in violation of MRPC 1.4(a); failed to make reasonable efforts to expedite litigation consistent with the interests of the client, in violation of MRPC 3.2; engaged in conduct prejudicial to the administration of justice, in violation of MCR

9.104(1); engaged in conduct that exposes the legal profession or the courts to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(2); and, engaged in conduct that is contrary to justice, ethics, honesty, or good morals, in violation of MCR 9.104(3).

In accordance with the stipulation of the parties, the hearing panel ordered that respondent's license to practice law in Michigan be suspended for 30 days, effective December 1, 2025, that he pay restitution totaling \$500, and that he be subject to a condition relevant to the established misconduct. Total costs were assessed in the amount of \$1,328.04.

^{1.} The hearing panel found that there was sufficient good cause for the suspension of respondent's license to become effective on December 1, 2025, as agreed to by the parties, to allow time for respondent to obtain coverage for his practice during the period of suspension.

REPRIMAND

Brian Emmanuel Jorde, P70620, Omaha. Reprimand, Effective October 10, 2025.

The Grievance Administrator filed a Notice of Filing of Reciprocal Discipline pursuant to MCR 9.120(C), that attached a certified copy of an Order of Reprimand entered by the lowa Supreme Court on June 19, 2025, in *Board v Brian Emmanuel Jorde*, lowa Supreme Court Case 25-0917.

An order regarding imposition of reciprocal discipline was issued by the Board and served on the parties on July 10, 2025, ordering the parties to inform the Board in writing, within 21 days from service of the order, (i) of any objection to the imposition of comparable discipline in Michigan based on the grounds set forth in MCR 9.120(C)(1), and (ii) whether a hearing was requested. The 21-day period set forth in the Board's order expired without objection or request for hearing by either party.

On September 11, 2025, the Attorney Discipline Board ordered that respondent be reprimanded, effective October 10, 2025. Costs were assessed in the amount of \$1,512.38.

SUSPENSION

Marsha M. Lang, P42392, Roosevelt, Utah. Suspension — Two Years, Effective October 10, 2025.¹

In a reciprocal discipline proceeding filed pursuant to MCR 9.120(C), the Grievance Administrator filed a certified copy of a Findings of Fact, Conclusions of Law and Order of Discipline: Suspension, entered on April 30, 2025, in a matter titled In the Matter of the Discipline of Marsha M. Lang #4995, Eighth Judicial District Court of Utah, Case No. 240905255.

An order regarding imposition of reciprocal discipline was issued by the Board and served on the parties on July 10, 2025, ordering the parties to inform the Board in writing, within 21 days from service of the order, (i) of any objection to the imposition of comparable discipline in Michigan based on the grounds set forth in MCR 9.120(C)(1), and (ii) whether a hearing was requested. The 21-day period set forth in the Board's order expired without objection or request for hearing by either party.

On September 11, 2025, the Attorney Discipline Board ordered that respondent's license to practice law in Michigan be suspended for two years. Costs were assessed in the amount of \$1,522.52.

1. Respondent has been continuously suspended from the practice of law in Michigan since May 1, 2005. See Notice of Three-Month Suspension (By Consent) dated February 2, 2006, in *Grievance Administrator v Marsha M. Lang*, 05-81-RD.

SUSPENSION (BY CONSENT)

Joseph Anthony Paparella, P64848, Grand Rapids. Suspension — 30 Days, Effective August 30, 2024.¹

Respondent and the Grievance Administrator filed a Stipulation for Consent Order of 30-day Suspension, in accordance with MCR 9.115(F)(5), which was approved by the Attorney Grievance Commission and accepted by Kent County Hearing Panel #3. The stipulation contained respondent's admission that he was convicted by jury verdict on August 30, 2024, of assault with a dangerous weapon (a felony) and reckless driving (a misdemeanor), in violation of MCL 750.82 and MCL 257.626, in State of Michigan v Joseph Anthony Paparella, Kent County Circuit Court, Case No. 23-03822-FH. In accordance with MCR 9.120(B)(1). respondent's license to practice law in Michigan was automatically suspended, ef40 Years of Successful
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fective August 30, 2024, the date of respondent's felony conviction.

Based on respondent's admissions and the stipulation of the parties, the panel found that respondent engaged in conduct that violated a criminal law of a state or of the United States, an ordinance, or tribal law pursuant to MCR 2.615, in violation of MCR 9.104(5); and engaged in conduct involving a violation of the criminal law, where such conduct reflects adversely on the lawyer's fitness as a lawyer, and constituted professional misconduct under MRPC 8.4(b).

The panel ordered that respondent's license to practice law in Michigan be suspended for 30 days, effective August 30, 2024, the date of respondent's automatic interim suspension from the practice of law in Michigan for his felony conviction. Costs were assessed in the amount of \$769.68.

1. On October 7, 2025, Respondent was reinstated to the practice of law in Michigan, see Order of Reinstatement.



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ORDERS OF DISCIPLINE & DISABILITY (CONTINUED)

- 2. Although not cited by the parties in the stipulation, we also consider illegal conduct [9.22(k)] as an aggravating factor here.
- 3. When asked by the panel as to why respondent's physical disability should be considered in mitigation, respondent's counsel indicated in the parties' joint response that "while Mr. Paparella is permanently physically disabled, it does not need to be considered in mitigation and can be omitted."

REPRIMAND (BY CONSENT)

Brandon K. Reed, P83861, Lansing. Reprimand — Effective October 3, 2025.

Respondent and the Grievance Administrator filed a Stipulation for Consent Order of Reprimand, in accordance with MCR 9.115(F)(5), which was approved by the Attorney Grievance Commission and accepted by Livingston County Hearing Panel #1. The stipulation contained respondent's admission that on July 23, 2024, he was convicted by guilty plea of Operating While Impaired by Liquor, a misdemeanor, in violation of MCL/PACC Code 257-6253-A, in State of Michigan v Brandon Keith Reed, 43rd Judicial District Court, Case No. 24H-0164.

Based on respondent's conviction, admission, and the parties' stipulation, the panel found that respondent committed profes-

sional misconduct when he engaged in conduct that violated a criminal law of a state or of the United States, an ordinance, or tribal law, in violation of MCR 9.104(5).

In accordance with the stipulation of the parties, the hearing panel ordered that respondent be reprimanded. Costs were assessed in the amount of \$975.68.

REPRIMAND (BY CONSENT)

Michael J. Szappan, P68107, Flushing. Reprimand, Effective October *7*, 2025.

Respondent and the Grievance Administrator filed a Stipulation for Consent Order of Discipline in accordance with MCR 9.115(F) (5), which was approved by the Attorney Grievance Commission and accepted by Genesee County Hearing Panel #2. Respondent pled no contest to the factual allegations and grounds for discipline set forth in paragraphs 1-4, 16-17, 21 as amended,1 43, 45-46, 51(c) and 51(f) of the formal complaint, namely that respondent, while working as an assistant prosecutor on a criminal case, failed to provide discovery related to the defendant's cell phone(s), which resulted in a mistrial, and following his termination, sent several unprofessional text messages to then-elected prosecutor. The stipulation further contained the parties' agreement that the following are dismissed: paragraphs 5-15, 18-42, 44, 47-50, and 51(a), (b), (d), (e), and (g).

Based upon respondent's no contest plea and the stipulation of the parties, the panel found that respondent failed to treat all persons involved in the legal process with courtesy and respect, in violation of MRPC 6.5(a), and engaged in conduct that exposes the legal profession or the courts to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(2).

In accordance with the stipulation of the parties, the panel ordered that respondent be reprimanded. Costs were assessed in the amount of \$936.84.

- 1. Paragraph 21 as originally alleged was dismissed as agreed, and replaced with the amended version to which respondent plead no contest.
- 2. The parties agree that paragraph 21 should be amended to "[a]fter an in-chambers meeting during the trial regarding defendant's cell phone download not being provided to defense counsel, the court granted defense counsel's motion for a mistrial."

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- Past chairperson, SBM Committee on Professional Ethics
- Past member, ABA Center for Professional Responsibility Committee on Continuing Legal Education
- Over 30 years experience representing lawyers in ethics consultations, attorney discipline investigations, trials and appeals and Bar applicants in character and fitness investigations and proceedings

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JAMES R. GEROMETTA (OF COUNSEL)

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- Former assistant federal defender and training director, Federal Community Defender Office, Eastern District of Michigan
- Over 24 years complex litigation experience
- Member, Association of Professional Responsibility Lawyers

REINSTATEMENT

On May 1, 2024, the Attorney Discipline Board entered an Order Affirming Hearing Panel Order of 90-Day Suspension in this matter, suspending respondent from the practice of law in Michigan for 90 days, effective May 23, 2024. On March 25, 2025, respondent timely filed an application for leave to appeal with the Michigan Supreme Court pursuant to MCR 9.122(A). On June 27, 2025, the Court issued an order denying respondent's application for leave to appeal. As a result, the order of suspension became effective on July 19, 2025.

On October 10, 2025, respondent filed an affidavit pursuant to MCR 9.123(A), attesting that he has fully complied with all requirements of the panel's order and will continue to comply with the order until and unless reinstated. The Grievance Administrator did not file an objection to respondent's affidavit pursuant to MCR 9.123(A); and the Board being otherwise advised;

NOW THEREFORE,

IT IS ORDERED that respondent, **Wayne F. Crowe,** P 77374 is **REINSTATED** to the practice of law in Michigan, effective October 21, 2025.

REINSTATEMENT

On September 24, 2024, Tri-County Hearing Panel #10 entered an Order of Suspension with Conditions (By Consent) in this matter suspending respondent from the practice of law in Michigan for 179 days,

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effective immediately, ordering him to comply with conditions, and pay costs in the amount of \$2,130.80. The Board entered an order on October 25, 2024, granting respondent's request for a payment plan. On October 13, 2025, respondent filed an affidavit pursuant to MCR 9.123(A), attesting that he has fully complied with all requirements of the panel's order and will continue to comply with the order until and unless reinstated. The Board was advised that the Grievance Administrator has no objection to the affidavit; and the Board being otherwise advised;

NOW THEREFORE,

IT IS ORDERED that respondent, **Gerard J. Garno**, P62106, is **REINSTATED** to the practice of law in Michigan, effective October 15, 2025.

REINSTATEMENT

On January 9, 2025, Washtenaw County Hearing Panel #1 entered an Order of Suspension With Conditions (By Consent) in this matter, suspending respondent's license to practice law in Michigan for 30 days, effective January 31, 2025.

On September 16, 2025, respondent filed an affidavit pursuant to MCR 9.123(A), attesting that she has fully complied with all requirements of the panel's order, and will continue to comply until reinstated. No objection pursuant to MCR 9.123(A) was received by the Board from Grievance Administrator within the seven-day window; and the Board being otherwise advised;

NOW THEREFORE,

IT IS ORDERED that respondent, **Rebecca L. McCluskey**, P78345, is **REINSTATED** to the practice of law in Michigan, effective Tuesday, October 7, 2025.

REINSTATEMENT

On August 5, 2025, Upper Peninsula Hearing Panel #2 entered an Order of Suspension with Conditions in this matter suspending respondent from the practice of law in Michigan for 30 days, effective August 27, 2025. On September 22, 2025, respondent filed an affidavit pursuant to MCR 9.123(A), attesting that he has fully complied with all requirements of the panel's order and will continue to comply with the order until and unless reinstated. The Grievance Administrator did not file an objection to respondent's affidavit pursuant to MCR 9.123(A); and the Board being otherwise advised;

NOW THEREFORE,

IT IS ORDERED that respondent, **Nicholas A. Tselepis**, P 80909, is **REINSTATED** to the practice of law in Michigan, effective September 30, 2025.

REINSTATEMENT

On July 22, 2025, Muskegon County Hearing Panel #2 entered an Order of Suspension and Restitution (By Consent) in this matter, suspending respondent's license to practice law in Michigan for 60 days, effective August 13, 2025.

ORDERS OF DISCIPLINE & DISABILITY (CONTINUED)

On October 6, 2025, respondent filed an affidavit pursuant to MCR 9.123(A), attesting that she has fully complied with all requirements of the panel's order, and will continue to comply until reinstated. Counsel for the Grievance Administrator informed the Board's staff that the Administrator has no objection to respondent's reinstatement; and the Board being otherwise advised;

NOW THEREFORE.

IT IS ORDERED that respondent, Doris Culver Vandenberg, P 56828, is REINSTATED to the practice of law in Michigan, effective October 13, 2025.

1. To date, respondent has also been known as: Doris Day Winters, Doris M. Winters, Doris Marie Day-Winters, Doris Culber Day, Doris Culver Day, and Doris Culver Vandenberg.

HEARING ON PETITION FOR REINSTATEMENT

Notice is given that Peter T. Howe (P57973), has filed a petition in the Michigan Supreme Court, the Attorney Discipline Board, and the Attorney Grievance Commission seeking reinstatement as a member of the State Bar and restoration of his license to practice law in accordance with MCR 9.124(A). In the Matter of the Reinstatement Petition of Peter T. Howe (P57973), ADB Case No. 25-82-RP.

On March 9, 2011, Petitioner was convicted in the Oakland County Circuit Court, of larceny by conversion \$1,000 to \$20,000, a felony, contrary to MCL 750.362. Petitioner's conduct was in violation of MCR 9.104(A)(5). Based on Petitioner's felony conviction, the hearing panel ordered that his license to practice law in Michigan be suspended for two and half years, retroactive to March 9, 2011, the date of his conviction. On November 21, 2011, the Grievance Administrator filed a petition for review, seeking an increase in discipline. Prior to the scheduled review hearing before the Board, the Grievance



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Administrator and the Petitioner stipulated that the matter should be remanded to the hearing panel for further consideration in conjunction with a newly filed reciprocal discipline proceeding based upon an order of discipline entered in the state of Illinois (ADB Case No. 12-22-RD). On April 17, 2012, in accordance with MCR 9.115(F) (5), the parties filed a stipulation for consent order of discipline which was approved by the Attorney Grievance Commission and accepted by the hearing panel. Based on the agreement of the parties, the hearing panel ordered that Petitioner be disbarred from the practice of law in Michigan effective March 9, 2011, the date of his felony conviction.

The Attorney Discipline Board has assigned the reinstatement petition to Emmet County Hering Panel #1. A Zoom hearing is scheduled for Monday, January 5, 2025, at 10:30 a.m.

In the interest of maintaining the high standards imposed upon the legal profession as conditions for the privilege to practice law in this state, and of protecting the public, the judiciary, and the legal profession against conduct contrary to such standards, Petitioner will be required to establish his eligibility for reinstatement by clear and convincing evidence.

Any interested person may appear at the hearing and request to be heard in support of or in opposition to the petition for reinstatement.





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FROM THE MICHIGAN SUPREME COURT

ADM File No. 2022-31 Proposed Amendment of Rule 2.106 of the Michigan Court Rules

On order of the Court, this is to advise that the Court is considering an amendment of Rule 2.106 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the Public Administrative Hearings page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Rule 2.106 Notice by Posting or Publication (

(A)-(E) [Unchanged.]

- (F) Newspaper Defined.
 - (1) The term "newspaper" as used in this rule means a print publication is limited to a newspaper published in the English language for the dissemination of local news of a general charactergeneral news and information or for the dissemination of legal news, to which all of the following apply:
 - (a) There is The newspaper must have a bona fide list of paying subscribers to the publication or the publication has or have been published at least once a week in the same community without interruption for at least 2 years.
 - (b) The publication has and have been published and of general circulation at not less than weekly intervalsestablished, published, and circulated at least once a week without interruption for at least 1 year in the county where publication is to occur. A newspaper shall not lose eligibility for interruption of continuous publication due to any of the following:
 - (i) An act of God.
 - (ii) Labor disputes.
 - (iii) The COVID-19 pandemic, for the period beginning March 10, 2020 through the end of the CO-VID-19 pandemic.
 - (iv) Military service of the publisher for a period not to exceed 2 years and provided the publication is re-

- sumed within 6 months following the termination of such military service.
- (c) The publication annually averages at least 25% news and editorial content per issue.
- (d) The publication must offer a print and website version.

 During the full publication period, any notice must appear in the publication's print and website versions and be placed on the website established and maintained by a state association of newspapers that represents a majority of newspapers in this state as a central repository for notices.
- (2) [Unchanged.]
- (G) [Unchanged.]

Staff Comment (ADM File No. 2022-31): The proposed amendment of MCR 2.106 would update the definition of "newspaper" for notice by publication. See MCL 691.1051.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by February 1, 2026 by clicking on the "Comment on this Proposal" link under this proposal on the Court's Proposed & Adopted Orders on Administrative Matters page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2022-31. Your comments and the comments of others will be posted under the chapter affected by this proposal.

ADM File No. 2023-09 Proposed Amendment of Rule 6.106 of the Michigan Court Rules

On order of the Court, this is to advise that the Court is considering an amendment of Rule 6.106 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the Public Administrative Hearings page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Rule 6.106 Pretrial Release

(A)-(H) [Unchanged.]

- (I) Termination of Release Order.
 - (1) Except as otherwise provided in this subrule, iff the conditions of the release order are met and the defendant is discharged from all obligations in the case, the court must vacate the release order, discharge anyone who has posted bail or bond, and, return the cash (or its equivalent) posted in the full amount of the bail, or, if there has been a deposit of 10 percent of the full bail amount for a crime governed by MCL 780.66, return 90 percent of the deposited money and retain 10 percent. If the accused deposited 10 percent of the full bail amount for a crime governed by MCL 780.66, is discharged from all obligations in the case, and has not been convicted of the charged crime, the court must return to the defendant the entire deposited amount.

(2)-(3) [Unchanged.]

Staff Comment (ADM File No. 2023-09): The proposed amendment of MCR6.106 would align the rule with MCL 780.66(6), which addresses the return of deposited percent bonds.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by February 1, 2026 by clicking on the "Comment on this Proposal" link under this proposal on the Court's Proposed & Adopted Orders on Administrative Matters page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When submitting a comment, please refer to ADM File No. 2023-09. Your comments and the comments of others will be posted under the chapter affected by this proposal.

ADM File No. 2024-02 Proposed Amendment of Rule 7.215 of the Michigan Court Rules

On order of the Court, this is to advise that the Court is considering an amendment of Rule 7.215 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford inter-

ested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the Public Administrative Hearings page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Rule 7.215 Opinions, Orders, Judgments, and Final Process for Court of Appeals

(A)-(G) [Unchanged.]

- (H) Certain Dispositive Orders and Opinions-in Criminal Cases;
 - (1) [Numbered but otherwise unchanged.]
 - (2) Remand With Retained Jurisdiction. If the Court of Appeals remands a case to the trial court and retains jurisdiction, the Court of Appeals will review the decisions made by the trial court during the remand proceedings and consider any remaining issues in the appeal in the same Court of Appeals case. The parties and the trial court must not initiate a new appeal from an order entered on remand within the scope of this appeal.

<u>Unless the Court of Appeals states a different time, the appellant must:</u>

- (a) initiate the proceedings in the trial court within 21 days of the Court's opinion.
- (b) file with the Court of Appeals all orders entered on remand within seven days of entry by the trial court.
- (c) ensure the transcripts of all proceedings on remand are filed in the trial court and the Court of Appeals within 21 days after completion of the proceedings.

In a criminal or termination of parental rights case, the appellant may file a supplemental brief addressing issues resulting from the remand proceedings within 21 days after the trial court's decision or after the filing of the transcript of the remand proceedings in the trial court, whichever is later. If the appellant does not file a supplemental brief, the appellee may file a supplemental brief within 21 days after appellant's time for filing has run. A responsive brief may be filed within 14 days of service of the supplemental brief.

In all other cases, the parties may move for leave to file supplemental briefs after the proceedings on remand have concluded.

The parties may request oral argument in their supplemental briefs. The Court of Appeals retains discretion to grant or deny requests for oral argument.

(I)-(J) [Unchanged.]

FROM THE MICHIGAN SUPREME COURT (CONTINUED)

Staff Comment (ADM File No. 2024-02): The proposed amendment of MCR 7.215 would clarify that in cases where the Court of Appeals remands a case to the trial court, the Court of Appeals will review the decisions made on remand, and in criminal and termination of parental rights cases, the parties are afforded the right to supplemental briefing.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by February 1, 2026 by clicking on the "Comment on this Proposal" link under this proposal on the Court's Proposed & Adopted Orders on Administrative Matters page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When submitting a comment, please refer to ADM File No. 2024-02. Your comments and the comments of others will be posted under the chapter affected by this proposal.

ADM File No. 2024-07 Proposed Amendment of Rule 6 of the Rules Concerning the State Bar of Michigan

On order of the Court, this is to advise that the Court is considering an amendment of Rule 6 of the Rules Concerning the State Bar of Michigan. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the Public Administrative Hearings page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Rule 6. Representative Assembly.

Section 1-3 [Unchanged.]

Section 4. Nomination and Election of Representatives. A representative is elected by the active members having their principal offices in a judicial circuit. To be nominated, a member must have

his or her principal office or residence, or regularly practice law in the judicial circuit and file a petition signed by at least 5 persons entitled to vote for the nominee with the secretary at the principal office of the State Bar between April 1 and April 30. Voting eligibility is determined annually on May 1. Before June 2, the secretary shall mail or electronically deliver a ballot to everyone entitled to vote. When an assembly member seeks reelection, the election notification must disclose his or her incumbency and the number of meetings of the assembly that the incumbent has attended in the following form: "has attended __ of __ meetings during the period of [his or her] incumbency." A ballot may not be counted unless marked and returned to the secretary at the principal office of the State Bar in a sealed envelope bearing a postmark date not later than June 15, or returned electronically or telephonically in conformity with State Bar election procedure not later than June 15. A board of tellers appointed by the president shall canvass the ballots and the secretary shall certify the count to the supreme court clerk. A member of or candidate for the assembly may not be a teller. The candidate receiving the highest number of votes will be declared elected. In the case of a tie vote, the tellers shall determine the successful candidate by lot. An election will occur in each judicial circuit every 3 years, except that in a judicial circuit entitled to 3 or more representatives, one-third will be elected each year. If a short-term representative is to be elected at the same election as a full-term one, the member with the higher vote total is elected to the longer term.

Section 5. Terms. An elected representative shall serve a three-year term beginning with the adjournment of the annual meeting following the representative's election and until his or her successor is elected. A representative may not continue to serve after completing two successive three-year terms unless service is extended under the provisions of Rule 7, Section 2.2.

Section 6. Vacancy. If an elected representative ceases to be a member of the State Bar of Michigan, dies during his or her term of office, moves his or her principal office out of the judicial circuit he or she represents, or submits a written resignation acceptable to the chairperson, the chairperson shall declare that a vacancy exists. If an elected representative does not attend two consecutive meetings of the assembly without being excused by the chairperson because of a personal or professional emergency, or does not attend three consecutive meetings of the assembly for any reason or reasons, the chairperson shall declare that a vacancy exists. When a vacancy exists, the remaining representatives from the affected judicial circuit or, if there are none, the State Bar-recognized local bar associations in the affected judicial circuit, shall nominate a successor prior to the next meeting of the assembly. The assembly may appoint such nominee or, in the event of failure to receive such nomination, any lawyer from the affected judicial circuit, to fill the

vacancy, effective immediately upon such appointment and continuing until the position is filled by the election process. In the event that at the time a vacancy arises under this rule more than eighteen months remain in the term of an elected representative, there will be an election for the unexpired term at the next annual election of representatives. If there are less than eighteen months remaining in the term of an elected representative when a vacancy arises, no interim election will be held. The interim appointment ends when the secretary certifies the election count, and the person elected shall take his or her seat immediately.

Section 7-8 [Unchanged.]

Staff Comment (ADM File No. 2024-07): The proposed amendment of Rule 6 would address the nomination and election of members of the Representative Assembly, including their terms and vacancies.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by February 1, 2026 by clicking on the "Comment on this Proposal" link under this proposal on the Court's Proposed & Adopted Orders on Administrative Matters page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When submitting a comment, please refer to ADM File No. 2024-07. Your comments and the comments of others will be posted under the chapter affected by this proposal

ADM File No. 2024-10 Proposed Amendment of Rule 6.429 of the Michigan Court Rules

On order of the Court, this is to advise that the Court is considering an amendment of Rule 6.429 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the Public Administrative Hearings page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Rule 6.429 Correction and Appeal of Sentence

(A) Authority to Modify Sentence. The court may correct an invalid sentence, on its own initiative after giving the parties an opportunity to be heard, or on motion by either party. Any correction of an invalid sentence on the court's own initiative must occur after giving the parties an opportunity to be heard and within 6 months of the entry of the judgment of conviction and sentence. Any objection to the corrected sentence must be presented to the court at the time that the court provides an opportunity to be heard. But tIhe court may not modify a valid sentence after it has been imposed except as provided by law. Any correction of an invalid sentence on the court's own initiative must occur within 6 months of the entry of the judgment of conviction and sentence.

(B)-(C) [Unchanged.]

Staff Comment (ADM File No. 2024-10): The proposed amendment of MCR 6.429 would reorganize and update the rule to clarify that a court must afford parties an opportunity to object to its sua sponte correction of a Judgment of Sentence and that the parties must raise any objections when that opportunity is provided.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by February 1, 2026 by clicking on the "Comment on this Proposal" link under this proposal on the Court's Proposed & Adopted Orders on Administrative Matters page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When submitting a comment, please refer to ADM File No. 2024-10. Your comments and the comments of others will be posted under the chapter affected by this proposal.

ADM File No. 2024-30 ADM File No. 2024-39 Proposed Amendment of Rule 7.306 of the Michigan Court Rules

On order of the Court, this is to advise that the Court is considering an amendment of Rule 7.306 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the Public Administrative Hearings page.

FROM THE MICHIGAN SUPREME COURT (CONTINUED)

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Rule 7.306 Original Proceedings

(A)-(B) [Unchanged.]

- (C) The following actions must be initiated only in the Supreme Court as an original proceeding and in accordance with this rule: (1)-(2) [Unchanged.]
 - (3) An action under MCL 168.479 that challenges a determination by the Board of State Canvassers under MCL 168.882 or MCL 168.883a regarding a recount or proposed recount of ballots cast for President or Vice President of the United States following the most recent general election.

For any filing deadlines expressed in terms of hours, MCR 1.109(G)(5)(b) does not apply.

- (D) What to File. Service provided under this subrule must be verified by the clerk. To initiate an original proceeding, a plaintiff must file with the clerk all of the following: (1)-(2) [Unchanged.]
 - (3) Proof that the complaint and brief were served on the defendant, and

(a)-(b) [Unchanged.]

- (c) for purposes of a complaint filed under MCL 168.46, it must also include a date and time stamped copy of the board of state canvasser's certification of the completed recount, and service of a copy of the complaint and brief shall be made on the defendant(s) and all of the following persons if not named as a defendant: (i)-(iv) [Unchanged.]
 - A complaint filed under MCL 168.46 must be filed with the Court within 24 hours after the <u>board of state</u> <u>canvassers'sgovernor's</u> certification of the completed recount <u>or bybut no later than</u> 8:00 a.m. on the day before the electors of President and Vice President are required to convene pursuant to MCL 168.47, whichever is earlier.
- (d) for purposes of a complaint filed under MCL 168.845a, it must also include a date and time stamped copy of the certification or determination of the presidential election results, and service of a copy of the complaint and brief shall be made on the defendant(s) and all of the following persons if not named as a defendant: (i)-(iv) [Unchanged.]

A complaint filed under MCL 168.845a must be filed with the Court within 48 hours after the certification or determination of the results of a presidential election and must name the board of state canvassers as a defendant.

- (e) for purposes of a complaint filed under MCL 168.479

 to challenge a determination under MCL 168.882 or

 MCL 168.883a, service of a copy of the complaint
 and brief shall be made on any of the following persons if not named as a defendant:
 - (i) all presidential and vice presidential candidates who appeared on the ballot,

(ii) the governor,

(iii) the attorney general,

(iv) the secretary of state, and

(v) any chairperson of a board of county canvassers that may be subject to or participated in the recount.

A complaint filed under MCL 168.479 to challenge a determination under MCL 168.882 or MCL 168.883a must be filed within 24 hours after the Board of State Canvassers issues its determination.

(4) [Unchanged.]

Copies of relevant documents, record evidence, or supporting affidavits may be attached as exhibits to the complaint.

(E) Answer.

(1)-(3) [Unchanged.]

- (4) A defendant in an action filed under MCL 168.479 to challenge a determination under MCL 168.882 or MCL 168.883a must file the following with the clerk within 24 hours of the complaint being filed, unless the Court directs otherwise:
 - (a) 1 signed copy of an answer in conformity with MCR 2.111(C);
 - (b) 1 signed copy of a supporting brief in conformity with MCR 7.212(B) and (D); and
 - (c) Proof that a copy of the answer and supporting brief was served on the plaintiff.
- (4) [Renumbered (5) but otherwise unchanged.]
- (F) [Unchanged.]
- (G) Reply Brief. 1 signed copy of a reply brief may be filed as provided in MCR 7.305(E). In an action filed under Const 1963, art 4, § 6(19), a reply brief may be filed within 3 days after service of the answer and supporting brief, unless the Court directs otherwise. In an action filed under MCL 168.845a, a reply brief may be filed within 24 hours1 day after service of the answer and supporting brief, unless the Court directs otherwise. A plaintiff may not file a reply brief in an action for judicial review under MCL 168.46 or in an action under MCL 168.479 that challenges the Board of State Canvassers' determination(s) under MCL 168.882 or MCL 168.883a.

(H)-(L) [Unchanged.]

Staff Comment (ADM File Nos. 2024-30 and 2024-39): The proposed amendment of MCR 7.306 would clarify some previously-adopted amendments and would allow new original actions relating to recounts or proposed recounts of the ballots cast in a

presidential election to be filed in this Court as a means of reducing any judicial-related barriers that may interfere with the outcome of such a recount or proposed recount.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by February 1, 2026 by clicking on the "Comment on this Proposal" link under this proposal on the Court's Proposed & Adopted Orders on Administrative Matters page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When submitting a comment, please refer to ADM File No. 2024-30/2024-39. Your comments and the comments of others will be posted under the chapter affected by this proposal.

ADM File No. 2024-30 ADM File No. 2024-39 Proposed Amendment of Rule 7.306 of the Michigan Court Rules

On order of the Court, this is to advise that the Court is considering an amendment of Rule 7.306 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the Public Administrative Hearings page.

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[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Rule 7.306 Original Proceedings

(A)-(B) [Unchanged.]

- (C) The following actions must be initiated only in the Supreme Court as an original proceeding and in accordance with this rule: (1)-(2) [Unchanged.]
 - (3) An action under MCL 168.479 that challenges a determination by the Board of State Canvassers under MCL 168.882 or MCL 168.883a regarding a recount or proposed recount of ballots cast for President or Vice President of the United States following the most recent general election.

For any filing deadlines expressed in terms of hours, MCR 1.109(G)(5)(b) does not apply.

- (D) What to File. Service provided under this subrule must be verified by the clerk. To initiate an original proceeding, a plaintiff must file with the clerk all of the following: (1)-(2) [Unchanged.]
 - (3) Proof that the complaint and brief were served on the defendant, and
 - (a)-(b) [Unchanged.]
 - (c) for purposes of a complaint filed under MCL 168.46, it must also include a date and time stamped copy of the board of state canvasser's certification of the completed recount, and service of a copy of the complaint and brief shall be made on the defendant(s) and all of the following persons if not named as a defendant:

 (i)–(iv) [Unchanged.]
 - A complaint filed under MCL 168.46 must be filed with the Court within 24 hours after the <u>board of state canvassers'sgovernor's</u> certification of the completed recount <u>or bybut no later than</u> 8:00 a.m. on the day before the electors of President and Vice President are required to convene pursuant to MCL 168.47, whichever is earlier.
 - (d) for purposes of a complaint filed under MCL 168.845a, it must also include a date and time stamped copy of the certification or determination of the presidential election results, and service of a copy of the complaint and brief shall be made on the defendant(s) and all of the following persons if not named as a defendant:

 (i)-(iv) [Unchanged.]
 - A complaint filed under MCL 168.845a must be filed with the Court within 48 hours after the certification or determination of the results of a presidential election and must name the board of state canvassers as a defendant.
 - (e) for purposes of a complaint filed under MCL 168.479 to challenge a determination under MCL 168.882 or MCL 168.883a, service of a copy of the complaint and brief shall be made on any of the following persons if not named as a defendant:
 - (i) all presidential and vice presidential candidates who appeared on the ballot,
 - (ii) the governor,
 - (iii) the attorney general,
 - (iv) the secretary of state, and
 - (v) any chairperson of a board of county canvassers that may be subject to or participated in the recount.

A complaint filed under MCL 168.479 to challenge a determination under MCL 168.882 or MCL 168.883a must be filed within 24 hours after the Board of State Canvassers issues its determination.

(4) [Unchanged.]

Copies of relevant documents, record evidence, or supporting affidavits may be attached as exhibits to the complaint.

(E) Answer. (1)-(3) [Unchanged.]

FROM THE MICHIGAN SUPREME COURT (CONTINUED)

- (4) A defendant in an action filed under MCL 168.479 to challenge a determination under MCL 168.882 or MCL 168.883a must file the following with the clerk within 24 hours of the complaint being filed, unless the Court directs otherwise:
 - (a) 1 signed copy of an answer in conformity with MCR 2.111(C);
 - (b) 1 signed copy of a supporting brief in conformity with MCR 7.212(B) and (D); and
 - (c) Proof that a copy of the answer and supporting brief was served on the plaintiff
- (4) Renumbered (5) but otherwise unchanged.]
- (F) [Unchanged.]
- (G) Reply Brief. 1 signed copy of a reply brief may be filed as provided in MCR 7.305(E). In an action filed under Const 1963, art 4, § 6(19), a reply brief may be filed within 3 days after service of the answer and supporting brief, unless the Court directs otherwise. In an action filed under MCL 168.845a, a reply brief may be filed within 24 hours1 day after service of the answer and supporting brief, unless the Court directs otherwise. A plaintiff may not file a reply brief in an action for judicial review under MCL 168.46 or in an action under MCL 168.479 that challenges the Board of State Canvassers' determination(s) under MCL 168.882 or MCL 168.883a.

(H)-(L) [Unchanged.]

Staff Comment (ADM File Nos. 2024-30 and 2024-39): The proposed amendment of MCR 7.306 would clarify some previously-adopted amendments and would allow new original actions relating to recounts or proposed recounts of the ballots cast in a presidential election to be filed in this Court as a means of reducing any judicial-related barriers that may interfere with the outcome of such a recount or proposed recount.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by February 1, 2026 by clicking on the "Comment on this Proposal" link under this proposal on the Court's Proposed & Adopted Orders on Administrative Matters page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When submitting a comment, please refer to ADM File No. 2024-30/2024-39. Your comments and the comments of others will be posted under the chapter affected by this proposal.

ADM File No. 2025-01 Appointments to the Michigan Judicial Council

On order of the Court, pursuant to MCR 8.128, Monica McMichael is appointed to the Michigan Judicial Council for a partial term effective immediately and ending on December 31, 2026.

In addition, Chief Justice Megan K. Cavanagh will serve as Chairperson of the Council by virtue of her role within the Supreme Court, and it is further ordered that, effective immediately, Justice Elizabeth M. Welch will serve as nominee of Chief Justice Cavanagh in accordance with MCR 8.128(C)(1)(b) for a partial term ending on December 31, 2025.

ADM File No. 2025-29

Rescission of Administrative Order No. 2025-2 (Appellate Courts and Court of Claims Operations During Government Shutdown)

On order of the Court, effective immediately, Administrative Order No. 2025-2 – Appellate Courts and Court of Claims Operations During Government Shutdown is rescinded.

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cal malpractice cases, social security disability cases, and serves as an expert witness. Emily Tiderington BSN, RN, LNC, may be contacted at emily.tiderington@gmail.com or on LinkedIn.

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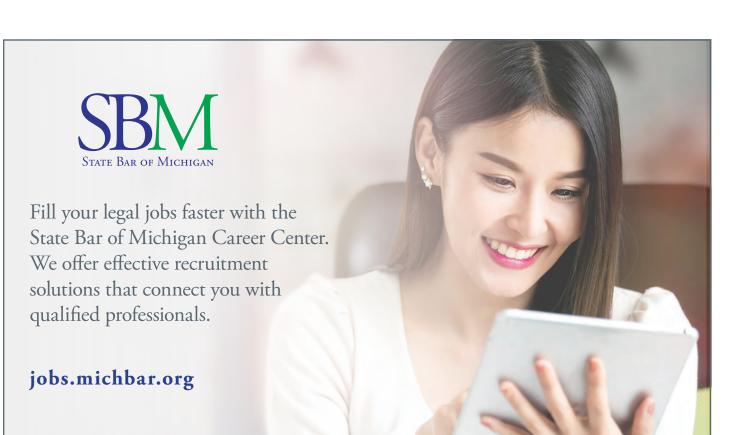
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