



Report on Public Policy Position

Name of section:

Alternative Dispute Resolution Section

Contact Person:

William L. Weber, Jr.

E-mail:

williamlouisweber@msn.com

Proposed Court Rule or Administrative Order Number:

2006-44 - Proposed Amendment of Rule 7.306 of the Michigan Court Rules

These proposed amendments would alter the requirements for filing amicus briefs with the Michigan Supreme court. Proposal A and Proposal B are published for comment.

Date position was adopted:

5/4/07

Process used to take the ideological position:

Position adopted after an electronic discussion and vote

Number of members in the decision-making body:

24

Number who voted in favor and opposed to the position:

24 Voted for position

0 Voted against position

0 Abstained from vote

0 Did not vote

Position:

The ADR Section does not take a position regarding a preference as between Proposal A or Proposal B of the Administrative Order; however, it does offer the following comments regarding language in each of the proposals (see below).

Explanation of the position, including any recommended amendments:

The ADR Section does not take a position regarding a preference as between Proposal A or Proposal B of the Administrative Order; however, it does offer the following comments regarding language in each of the proposals:

As to Proposal A, Subsection D(2) - The amendment does not require a motion for leave to file an amicus brief if the brief is presented on behalf of the people of the state of Michigan or any of its agencies or political subdivisions of the state or on behalf of the Prosecuting Attorneys Association of Michigan or the Criminal Defense Attorneys of Michigan. The last sentence of this paragraph should be changed to include the word "Association" and should read Criminal Defense Attorneys Association of Michigan. Otherwise, this paragraph may be interpreted to permit any criminal defense attorney in Michigan to file an amicus curiae brief without seeking leave from the court to do so.

In addition, this amendment should be expanded to include not only the political subdivisions of the state but also the State Bar of Michigan (SBM) and its authorized Sections. Certainly, the various Sections of the SBM play an essential role in helping the Supreme Court develop the laws of this state.

As to Proposal B, Subsection D(1) - This amendment provides that an amicus curiae brief may be filed within 28 days after the brief of the appellee. The ADR Section Council strongly supports this amendment since amicus will be given the opportunity to read the briefs of both parties before it submits its brief. Also, the Court will have the benefit of assessing amicus views concerning the potential impact of the court's decision on the parties. This is a "win – win" situation for both the Court and the amicus curiae.

The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report.

<http://www.courts.michigan.gov/supremecourt/Resources/Administrative/2006-44-Revised.pdf>

RECOMMEND STATE BAR ACTION ON THIS ISSUE:

List any arguments against the position:

N/A