

# Another Signal Achievement of the State Bar Worth Celebrating



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**Y**ou don't have to be a "lawyer of a certain age" (as I am) to suffer from future shock. In just two decades, technology has profoundly changed our world with electronic discovery, social media, and an unregulated online marketplace for legal services. These developments have put new pressures on the legal profession, with even more sure to come. Are you ready for the prospect of online dispute resolution? Already here.<sup>1</sup> Robot lawyers questioning witnesses? Look to China.<sup>2</sup> The questions raised by these pressures cannot be evaluated or resolved by a handful of people; they need broad-based input from the diverse range of voices within the legal profession in Michigan along with hours of respectful discussion, critical thinking, and deep debate.

In Michigan, we are fortunate that we don't have to face these big questions alone. The State Bar of Michigan has been at the forefront of the changes happening in the legal profession and has successfully advocated for changes that help lawyers across our great state as well as the public we serve. The State Bar Judicial Crossroads Task Force paved the way for the creation of Michigan Legal Help, improvements in court funding

and judicial compensation, and increased use of problem-solving courts. Based on recommendations from the 21st Century Practice Task Force, the State Bar successfully advocated for rule amendments to increase access to legal representation and modernize the practice of law, including rules that permit attorneys to engage in limited scope representation and encourage them to maintain competency with technology. In addition, the State Bar led the fight to improve Michigan's criminal indigent defense system, which resulted in the creation of the Michigan Indigent Defense Commission and exponentially more resources being dedicated to criminal indigent defense in our state.

This month, we can celebrate the launching of another signal achievement of the State Bar. On January 1, 2020, new court rules took effect that significantly change the civil discovery process in Michigan, impacting circuit court civil cases as well as probate, domestic relations, and child protective proceedings. The last time the rules had been revised was more than 35 years ago, long before the development of the internet, the amplification of electronically stored information, and the headaches that go along with electronic discovery. An overhaul was long overdue.

With the encouragement of the Michigan Supreme Court, the State Bar of Michigan appointed the Civil Discovery Court

Rule Review Committee, chaired by Daniel D. Quick, to review the rules and propose changes to address the expense and burden of civil discovery, including technology considerations. The State Bar assembled a diverse group of attorneys with differing perspectives and roles in the judicial system, including judges, court administrators, and practitioners representing large firms, small firms, and public interests. Despite this, the committee recognized it needed more input to most effectively improve the civil discovery process, and reached out to the entire Bar membership seeking volunteers to serve on subcommittees. Many of you answered the call; more than 50 volunteers served on the committee and its five subcommittees.

The State Bar's commitment to widespread feedback continued throughout the rule development process. After drafting the initial proposal, the committee sought feedback from the Representative Assembly and State Bar members. This feedback was incredibly valuable and drove the committee to further refine the proposal. The Representative Assembly embraced the committee's rule proposal, and with its endorsement, the Supreme Court ultimately adopted the rule changes.

The work did not stop there. The State Bar recognized that these rules represent a fundamental change to the civil discovery process in Michigan. After the Supreme

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Court adopted the rules, the State Bar's work quickly shifted gears from drafting to educating. If you are an avid *Bar Journal* reader, I'm sure you saw the series of articles published in the September, October, and November issues discussing the substantive changes to the civil discovery rules. In addition, the State Bar was fortunate to partner with the Institute of Continuing Legal Education to provide a free on-demand seminar on the new rules. We also partnered with the Detroit chapter of the Association of Certified e-Discovery Specialists to provide a Civil Discovery Guidebook, written by attorneys at Dickinson Wright and Warner Norcross + Judd. An electronic version of the guidebook, the on-demand seminar, and other materials are available for free at the State Bar Civil Discovery Resource Center at [www.michbar.org/civildiscovery](http://www.michbar.org/civildiscovery).

And the work will continue. The State Bar remains committed to measuring success and the new rules' impact on improving the civil discovery process. In the coming months and likely years, the State Bar will work with the State Court Administrative Office to track data to determine whether the rules have their intended effect of reducing the cost of discovery and increasing access to our courts.

This project, like so many others, owes its success to you. Whether you were a committee or subcommittee member, commented on the draft rule, voted for your representative in the Representative Assembly, or simply paid your licensing fee, you helped make this happen. I am extremely proud of the State Bar, the Civil Discovery Court Rule Review Committee, and the individual lawyers who contributed to this important public service. In my judgment, the court rules revision project is precisely the kind of effort the Supreme Court had in mind when, in the Preamble to the Michigan Rules of Professional Conduct, it reminded

us that lawyers, as public citizens, "should seek improvement of the law, the administration of justice and the quality of service rendered by the legal profession...should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest."

Indeed, at the same time the integrated structure of the State Bar is currently being challenged in federal court,<sup>3</sup> I have never been more confident that the integrated bar is the most effective form of self-governance for attorneys and the best way to assist the Supreme Court in regulating the profession. The State Bar elevates the voices of Michigan attorneys, giving them more resonance in the critical choices for the future of the profession and the administration of justice. At the same time, we invite dissenting voices. After all, we are a profession of zealous advocates who understand the value of argument, debate, and civil disagreement! ■

#### ENDNOTES

1. Online dispute resolution is busting out all over, including in Michigan, e.g., *Online Dispute Resolution—Court Innovations*, Michigan Legal Help <<https://michiganlegalhelp.org/organizations-courts/courts/online-dispute-resolution-court-innovations>>. In North America, British Columbia has been a leader; its seven-year-old Civil Resolution Tribunal now offers online dispute resolution for condominium disputes, small claims up to \$5,000, divorce, and motor vehicle injury disputes up to \$50,000 according to the website <<https://civilresolution.bc.ca/>>. All websites cited in this article were accessed December 13, 2019.
2. The Chinese province of Shanghai recently piloted a "judicial assistant" robot in its criminal courts that can generate judgments and help with the interrogation of defendants, Coffey & Cumming-Bruce, *Beware the deficiencies of cyber-justice*, The London Times (December 11, 2019) <[https://www.thetimes.co.uk/article/beware-the-deficiencies-of-cyber-justice-7ksgwrj3w?utm\\_source=newsletter&utm\\_campaign=newsletter\\_121&utm\\_medium=email&utm\\_content=121\\_8083052&CMP=TNLEmail\\_118918\\_8083052\\_121](https://www.thetimes.co.uk/article/beware-the-deficiencies-of-cyber-justice-7ksgwrj3w?utm_source=newsletter&utm_campaign=newsletter_121&utm_medium=email&utm_content=121_8083052&CMP=TNLEmail_118918_8083052_121)>.
3. State Bar of Michigan Statement on Federal Lawsuit (August 22, 2019) <<https://www.michbar.org/news/newsdetail/nid/5644>>.



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