

***SPECIAL COMMITTEE ON GRIEVANCE
STATE BAR OF MICHIGAN***

ANNUAL REPORT FOR 2005-2006

Committee Name: Special Committee on Grievance.

Jurisdiction: Shall make recommendations concerning the operation of the Attorney Discipline Board, the Attorney Grievance Commission, and the Judicial Tenure Commission, and the Rules concerning them upon the request of the Board of Commissioners.

Officers and Membership:

Chair: John W. Allen

Members: 19

Associate Members: 3

2005-06 Meeting Schedule (date and location):

- December 7, 2005 (SBM Offices, Lansing, Michigan)
- February 22, 2006 (ADB Offices, Detroit, Michigan)
- Additional Meeting to occur May-June, 2006

Committee Activities:

1. Supreme Court ADM 2002-29 – Proposed Michigan Standards for Imposing Lawyer Sanctions (MSILS)

- Continue to monitor Supreme Court consideration of new standards
- Current Michigan Standards for Imposing Lawyer Sanctions
- Attorney Discipline Board (ADB) Proposals
- Alternative Proposal from Attorney Donald D. Campbell

2. Supreme Court ADM 2003-62-- Proposed Amendments to Michigan Rules of Professional Conduct (MRPC)

- Continued to assist Representative Assembly, which adopted several Grievance Committee Recommendations.
- Agreeing with Grievance Committee and Representative Assembly, Supreme Court re-ordered consideration of MSILS and proposals to amend MRPC, and adopted Committee concept of “nonrefundable retainer fee” rule.
- The Committee continues to gather empirical evidence and proposal language regarding "nonrefundable retainers."

3. Amendments to Code of Judicial Conduct (CJC).

- **ABA** developing comprehensive changes to CJC.
- Vital issues re attorney free speech and campaign speech will change.
- The Grievance Committee has been tracking the ABA process and will continue to do so at the 2006 ABA Annual Meeting, where a final proposal will likely be adopted.
- After that, Michigan should consider the ABA changes and decide regarding adoption.

4. Task Force on Attorney-Client Privilege.

- Tracking work by ABA, SBM President Tom Cranmer has appointed a Special Task Force on this topic.
- The Grievance Committee has played a critical role in that process. The Committee Chair is co-Chair of the SBM Privilege Task Force.
- An Information Program will be presented May 10, 2006, and the Grievance Committee will participate in that program.
- This work will continue in 2006-2007.

5. ADB Staffing.

- The Committee is concerned that AGC and ADB have staffing adequate for administration of the Michigan Discipline System. This includes personnel adequate to provide training for Hearing Panel members.
- The plan is for the Grievance Committee to confer with ADB, and other interested SBM stakeholders, including the Ethics Committee, for the purpose of constructing a more detailed SBM proposal,

Resources Provided by the State Bar of Michigan in Support of Committee Work:

Janet Welch has attended our Committee meetings. Victoria Kremski and John Berry frequently assisted Committee activities.

Future Goals and Activities:

1. MRPC and MSILS.

The Grievance Committee should continue its work regarding MSILS and the proposed Amendments to MRPC, including appearance at any Supreme Court hearings.

The Special Committee on Grievance should continue to play a key role in that process.

2. Amendments to Code of Judicial Conduct (CJC).

In 2006, at the ABA House of Delegates will likely consider several amendments to the Model Code of Judicial Conduct (MCJC). This is a culmination of an extensive, multi-year review and revision process, much like the ABA “Ethics 2000” approach to revisions in the MRPC.

The revisions will involve many controversial topics, such as campaign speech by candidates for judicial office, service on community or charitable boards and activities, and even the underlying “appearance of impropriety” standard. Much like the ongoing process for the consideration and adoption of the pending amendments to MRPC and MSILS, we should expect considerable attention to proposed CJC amendments, likely during the 2006-2007 SBM year.

The Special Committee on Grievance, with its function as an interface with the Michigan Judicial Tenure Commission, should be part of that process.

3. Developments regarding Attorney-Client Privilege.

In the last few years, both the federal (SEC, DOJ, HSD) and some state governments have issued rules and regulations which require lawyers to report to the government on their clients’ activities, and which encourage or compel clients to waive the privilege. At the same time, some states have issued ethics opinions stating that lawyers who comply with these laws may face professional discipline for violations of MRPC 1.6 and breaches of client confidentiality.

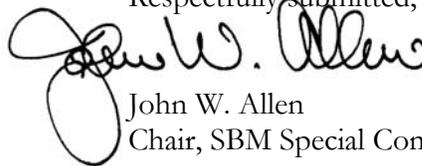
In August 2005 and February 2006, the ABA House of Delegates acted on the Reports of the ABA Task Force on Attorney-Client Privilege (on which the Grievance Committee Chair is a member). Those actions by ABA may call for the consideration of actions by the Michigan discipline system. More such reports will be received in 2006-2007.

The Special Committee on Grievance, with its function as an interface with the Michigan Attorney Grievance Commission and the Michigan Discipline Board, should be part of that process.

4. ADB Funding and Staffing.

We expect this issue to continue into the 2006-2007 SBM year. The Special Committee on Grievance, with its function as an interface with the Michigan Attorney Grievance Commission and the Michigan Discipline Board, should be part of that process.

Respectfully submitted,



John W. Allen
Chair, SBM Special Committee on Grievance

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