

CIVIL PROCEDURE & COURTS COMMITTEE
Respectfully submits the following position on:

*

SB 0707

*

The Civil Procedure & Courts Committee is comprised of members appointed by the President of the State Bar of Michigan.

The position expressed is that of the Civil Procedure & Courts Committee. The State Bar of Michigan has authorized the Civil Procedure & Courts Committee to advocate its position.

The State Bar's position on this matter is support.

The total membership of the Civil Procedure & Courts Committee is 20.

The position was adopted after discussion and vote at a scheduled meeting. The number of members in the decision-making body is 20. The number who voted in favor to this position was 15. The number who voted opposed to this position was 0.

Report on Public Policy Position

Name of committee:

Civil Procedure & Courts Committee

Contact person:

Daniel D. Quick

E-Mail:

dquick@dickinsonwright.com

Bill Number:

[SB 0707](#) (Schuitmaker) Civil procedure; discovery; uniform interstate depositions and discovery act; adopt. Amends sec. 1852 of [1961 PA 236](#) (MCL [600.1852](#)) & adds ch. 22.

Date position was adopted:

November 5, 2011

Process used to take the ideological position:

Position adopted after discussion and vote at a scheduled meeting.

Number of members in the decision-making body:

20

Number who voted in favor and opposed to the position:

15 Voted for position

0 Voted against position

0 Abstained from vote

5 Did not vote

Position:

Support

Explanation of the position, including any recommended amendments:

The Committee supports the proposed legislation. The Committee urges consideration of a new section to sec. 2203 (modeled upon New York statute CPLR 3119(b)(4)), which would provide as follows:

Notwithstanding paragraph one of this subdivision, if a party to an out-of-state proceeding retains an attorney licensed to practice in this state, and that attorney receives the original or a true copy of an out-of-state subpoena, the attorney may issue a subpoena in accordance with MCR 2.506.

This would eliminate administrative burden upon the clerk of the court and be more efficient.

Also, the Committee notes that, upon adoption of this legislation, the Supreme Court should modify MCR 2.506 so as to establish a procedure for how an action to enforce or quash a subpoena shall be handled (since there likely is no existing court file in existence and the process of filing a Complaint would seem overly cumbersome).

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

<http://legislature.mi.gov/doc.aspx?2011-SB-0707>

FOR LEGISLATIVE ISSUES ONLY:

This position falls within the following Keller-permissible category:

- The regulation and discipline of attorneys**
- ✓ **The improvement of the functioning of the courts**
- The availability of legal services to society**
- The regulation of attorney trust accounts**
- The regulation of the legal profession, including the education, the ethics, the competency, and the integrity of the profession.**

Keller-permissible explanation:

SB 0707 concerns the functioning of the courts, in the issuance of subpoenas. The bill is expected to increase administrative workloads of various courts.