

Civil Procedure & Courts Committee
July 18, 2013 - 9 a.m.
Teleconference Only: Please Call (877) 352-9775, Passcode 8309985151#

MINUTES

Committee Members: Daniel D. Quick, Thomas H. Bannigan, Richard D. Bisio, Hon. Rae Lee Chabot, Sean F. Crotty, Pamela C. Dausman, Robert J. Ehrenberg, Lori J. Frank, Hon. David M. Lawson, Sean P. McNally, Martha D. Moore, Karen H. Safran, George M. Strander, Alan R. Sullivan, Matthew A. Tarrant, Victoria A. Valentine (Advisor), Randy J. Wallace, Peter H. Webster (Advisor).

SBM Staff: Peter Cunningham, Carrie Sharlow

1. Call to Order – The meeting was called to order at 9:02 AM.
2. Minutes from the May 18, 2013 Meeting – The minutes were unanimously adopted.
3. Items before Representative Assembly, April 27 meeting – Daniel D. Quick offered an update of the three items Civil Procedure & Courts Committee presented to the April 27, 2013. Letters regarding proposed amendments on MCR 2.203 and MCR 2.306 were sent to the Supreme Court on June 27, 2013.

4. Old Items

A. Proposal to Revise MRPC 7.1 – Jules Olsman

This item was before the April 27, 2013 Representative Assembly and is currently being revised with the following language:

(d) Any communication made pursuant to this rule shall prominently include the name and office address of an active member in good standing of the State Bar of Michigan who is responsible for its content, using the name and office address provided to the State Bar of Michigan.

Martha Moore is happy to do some research on 7.2 vs. 7.1. She will contact Jules Olsman with concerns about whether it should be limited to visual and the issue of firm vs. single lawyer.

5. New Items

A. Proposal to Review Michigan Court Rules Revisions

Motion: Communicate with the appropriate individual on the Supreme Court, requesting an official look at the discovery rules with a conference of judges, lawyers, and laypersons.

Unanimous.

B. [2013-20 – Proposed Amendment of Rule 2.305 of the Michigan Court Rules](#)

The proposed changes of MCR 2.305 would make subrule (E) applicable only to actions

pending in another country, while new subrule (F) would cross reference the Uniform Interstate Depositions and Discovery Act, which establishes the procedures to be used in seeking a deposition or discovery subpoena in Michigan for use in an action that is pending in another state or territory.

Unanimous support with the language suggested by Mr. Webster.

- C. [2013-10 – Proposed Amendments of Rules 2.107 and 2.117 of the Michigan Court Rules](#)
The proposed amendment of MCR 2.107 would provide clarification by adding the term “order” so that after either a final judgment or order has entered, papers should be served on the party after the time for appeal has passed. The proposed amendment of MCR 2.117 would clarify that when an attorney appears in an action by filing or defending a postjudgment motion, the duration of the attorney’s appearance would be the same as that of an attorney filing or defending the original pleadings.

Unanimous support.

D. Mental Health Courts

[HB 4694](#)(Cotter) Courts, circuit court; Courts, district court; Mental health, other. Courts; circuit court; mental health court; create. Amends 1961 PA 236 (MCL 600.101 - 600.9947) by adding ch. heading & secs. 1090, 1091, 1092 & 1093.

[HB 4695](#)(Haines) Courts, circuit court; Courts, district court; Mental health, other. Courts; circuit court; mental health court; create. Amends 1961 PA 236 (MCL 600.101 - 600.9947) by adding secs. 1097 & 1098.

[HB 4696](#)(Walsh) Courts, circuit court; Courts, district court; Mental health, other. Courts; circuit court; mental health court; create. Amends 1961 PA 236 (MCL 600.101 - 600.9947) by adding secs. 1094, 1095 & 1096.

[HB 4697](#)(O'Brien) Courts, circuit court; Courts, district court; Mental health, other. Courts; circuit court; mental health court; create. Amends 1961 PA 236 (MCL 600.101 - 600.9947) by adding secs. 1099 & 1099a.

There was a workgroup that was put together under the DOC under the governor’s office, to work on a number of recommendations for mental health diversion. Governor is supporting these as well.

This is voluntary and not required. Funding comes from grants and a different source.

Unanimous support.

- E. [HB 4763](#) (Schmidt) Traffic control, traffic regulation. Traffic control; traffic regulation; use of automated traffic enforcement safety devices at certain intersections; allow. Amends secs. 727c & 741 of 1949 PA 300 (MCL 257.727c & 257.741) & adds div. heading & adds secs. 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761 & 762.

Position: To oppose for the same reasons as cited by the district judges association.

The committee has concern with the overbreadth of the proposal, in that it puts a presumption of responsibility of the party.
14 in favor, 1 abstention.

- F. [HB 4830](#)(Lyons) Civil procedure, evictions; Businesses, limited liability companies; Businesses, business corporations; Businesses, partnerships; Occupations, attorneys. Civil procedure; evictions; legal representation; allow corporation, partnership, or limited liability company to appear without an attorney. Amends 1961 PA 236 (MCL 600.101 - 600.9947) by adding sec. 5707.

Position: To oppose as it encourages the unauthorized practice of law.
13 in favor, 2 abstentions.

- G. [SB 0447](#) (Booher) Courts; judges; state reimbursement to court funding units for judgeship vacancies; provide for. Amends 1961 PA 236 (MCL 600.101 - 600.9947) by adding sec. 151f.

No position taken.