

The Representative Assembly



Your Voice in the State Bar of Michigan

“What would YOU like to change?”

Drafting and Submitting a Proposal
to the Representative Assembly

History and Purpose of the Representative Assembly

- In 1971, the State Bar Board of Commissioners requested that the Supreme Court create a "Representative Assembly"
- The first Assembly meeting was held in 1972
- The Assembly is composed of 150 lawyers who are either elected or appointed throughout the state
- It was created in order to increase the proportion of members who actively participate in policy-making for the bar

Drafting a Proposal

Drafting a proposal is easy and anyone can do it!

- Anyone who is a member of the State Bar of Michigan may submit a proposal through their RA delegate, section, committee, or local bar association
- To find your local delegate, click on the following link and then open the “Members Listed by Circuit” PDF file
 - <http://www.michbar.org/generalinfo/repasssembly.cfm>

First you must ask yourself, “what would I like to change?”

Drafting a Proposal

How do you draft a proposal?

- Every proposal has seven (7) parts
- Click the following link to the handbook then click on the Microsoft Word file named “Sample Proposals” to see sample proposals
- <http://www.michbar.org/generalinfo/handbook.cfm>

*(SAMPLE REPRESENTATIVE ASSEMBLY PROPOSAL)
Proposed Resolution (3)—Discovery in Client Representation and MCR 2.302(B)
September 27, 2007*

PROPOSED RESOLUTION (3) – DISCOVERY IN CLIENT REPRESENTATION AND MCR 2.302(B)

Issue

Should the State Bar of Michigan adopt the following resolution calling for an amendment to the Michigan Court Rules restricting the circumstances under which production of information and a lawyer’s testimony relating to the lawyer’s representation of a client can be compelled?

RESOLVED, that the State Bar of Michigan supports amendment of the Michigan Court Rules (MCR) to restrict the compelled production of information relating to a lawyer’s representation of a client, or compelling testimony by a lawyer relating to a representation of a client, except upon a showing of exigent circumstances, or upon a showing of substantial need including exhaustion of efforts to obtain such information from other sources; and mandating the requesting party’s payment of the reasonable cost of production and testimony, including the value of any loss of working time; and

FURTHER RESOLVED, that the State Bar of Michigan proposes the amendment of MCR 2.302(B) by adding subsection (B)(5) as follows:

(5) Lawyers and Lawyers' Files:

Compelling production of information relating to a lawyer's representation of a client, or compelling testimony by a lawyer relating to a representation of a client, shall not be ordered, except upon a showing of exigent circumstances, or upon a showing of substantial need including exhaustion of efforts to obtain such information from other sources.

The requesting party shall be responsible for payment to the lawyer for the reasonable cost of production and testimony, including the value of any loss of working time.

Synopsis

The proposed resolution supports an amendment to the Michigan Court Rules to prohibit the compelled production of information or lawyer’s testimony related to the lawyer’s representation of a client except upon a showing of exigent circumstances or a showing of substantial need after exhaustion of efforts to obtain the information from other sources. The amendment would make the requesting party responsible to the lawyer for the cost of production and testimony.

Part 1: Issue

- The proposal must be stated in the form of a question and in the exact words of the motion the sponsor will make as he or she presents the matter at the Representative Assembly meeting
- A proposal which amends an existing rule or law must show the full text of the existing rule or law proposed for amendment
- The proposed added language should be underlined and the proposed deleted language should be ~~struck through~~

PROPOSED RESOLUTION (3) – DISCOVERY IN CLIENT REPRESENTATION AND MCR 2.302(B)

Issue

Should the State Bar of Michigan adopt the following resolution calling for an amendment to the Michigan Court Rules restricting the circumstances under which production of information and a lawyer's testimony relating to the lawyer's representation of a client can be compelled?

RESOLVED, that the State Bar of Michigan supports amendment of the Michigan Court Rules (MCR) to restrict the compelled production of information relating to a lawyer's representation of a client, or compelling testimony by a lawyer relating to a representation of a client, except upon a showing of exigent circumstances, or upon a showing of substantial need including exhaustion of efforts to obtain such information from other sources; and mandating the requesting party's payment of the reasonable cost of production and testimony, including the value of any loss of working time; and

FURTHER RESOLVED, that the State Bar of Michigan proposes the amendment of MCR 2.302(B) by adding subsection (B)(5) as follows:

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Compelling production of information relating to a lawyer's representation of a client, or compelling testimony by a lawyer relating to a representation of a client, shall not be ordered, except upon a showing of exigent circumstances, or upon a showing of substantial need including exhaustion of efforts to obtain such information from other sources.

The requesting party shall be responsible for payment to the lawyer for the reasonable cost of production and testimony, including the value of any loss of working time.

Part 2: Synopsis

- Provide a brief summary of the reason for the proposed change and/or proposal, noting what entity or entities support the proposal

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(5) Lawyers and Lawyers' Files:

Compelling production of information relating to a lawyer's representation of a client, or compelling testimony by a lawyer relating to a representation of a client, shall not be ordered, except upon a showing of exigent circumstances, or upon a showing of substantial need including exhaustion of efforts to obtain such information from other sources.

The requesting party shall be responsible for payment to the lawyer for the reasonable cost of production and testimony, including the value of any loss of working time.

Synopsis

The proposed resolution supports an amendment to the Michigan Court Rules to prohibit the compelled production of information or lawyer's testimony related to the lawyer's representation of a client except upon a showing of exigent circumstances or a showing of substantial need after exhaustion of efforts to obtain the information from other sources. The amendment would make the requesting party responsible to the lawyer for the cost of production and testimony.

Background

The proposed resolution is the recommendation of the State Bar's Task Force on Attorney-Client Privilege. The Final Report of the Task Force is attached. The proposed amendment would apply to all actions in Michigan state courts, and would not apply to

Synopsis

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Part 2: Synopsis

- The sponsor of the proposal should make an analysis under the “Keller” standards to make sure the proposal is “Keller” permissible
 - <http://www.michbar.org/generalinfo/origin.cfm>
- Click the link and scroll down to Scope of Authority to see the Keller Standards
- The two permissible subject areas under Keller are:
 - Regulation of the legal profession
 - Improvement in the quality of legal services

Part 3: Background

- Provide a substantive background regarding the history and the need for the proposed change or proposal and other information that would assist the Assembly in understanding the applicable issues and law
- The background information should not exceed five (5) pages unless approved by the appropriate Assembly leadership

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(5) Lawyers and Lawyers' Files:

Compelling production of information relating to a lawyer's representation of a client, or compelling testimony by a lawyer relating to a representation of a client, shall not be ordered, except upon a showing of exigent circumstances, or upon a showing of substantial need including exhaustion of efforts to obtain such information from other sources.

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Synopsis

The proposed resolution supports an amendment to the Michigan Court Rules to prohibit the compelled production of information or lawyer's testimony related to the lawyer's representation of a client except upon a showing of exigent circumstances or a showing of substantial need after exhaustion of efforts to obtain the information from other sources. The amendment would make the requesting party responsible to the lawyer for the cost of production and testimony.

Background

The proposed resolution is the recommendation of the State Bar's Task Force on Attorney-Client Privilege. The Final Report of the Task Force is attached. The proposed amendment would apply to all actions in Michigan state courts, and would not apply to federal prosecutors or federal court actions.

Opposition

None known.

Prior Action by Representative Assembly

Background

The proposed resolution is the recommendation of the State Bar's Task Force on Attorney-Client Privilege. The Final Report of the Task Force is attached. The proposed amendment would apply to all actions in Michigan state courts, and would not apply to federal prosecutors or federal court actions.

Part 4: Opposition

- Fill in the reasons and/or arguments against the proposed issue

Synopsis

The proposed resolution supports an amendment to the Michigan Court Rules to prohibit the compelled production of information or lawyer's testimony related to the lawyer's representation of a client except upon a showing of exigent circumstances or a showing of substantial need after exhaustion of efforts to obtain the information from other sources. The amendment would make the requesting party responsible to the lawyer for the cost of production and testimony.

Background

The proposed resolution is the recommendation of the State Bar's Task Force on Attorney-Client Privilege. The Final Report of the Task Force is attached. The proposed amendment would apply to all actions in Michigan state courts, and would not apply to federal prosecutors or federal court actions.

Opposition

None known.

Prior Action by Representative Assembly

None known.

Fiscal and Staffing Impact on State Bar of Michigan

None known.

Part 5: Prior Action by the Representative Assembly

- Provide the history of the current issue within the context of Representative Assembly
- Link to the archives of the Representative Assembly where you can find archives of previous meetings and proposals
 - <http://www.michbar.org/generalinfo/proceedings.cfm>

Synopsis

The proposed resolution supports an amendment to the Michigan Court Rules to prohibit the compelled production of information or lawyer's testimony related to the lawyer's representation of a client except upon a showing of exigent circumstances or a showing of substantial need after exhaustion of efforts to obtain the information from other sources. The amendment would make the requesting party responsible to the lawyer for the cost of production and testimony.

Background

The proposed resolution is the recommendation of the State Bar's Task Force on Attorney-Client Privilege. The Final Report of the Task Force is attached. The proposed amendment would apply to all actions in Michigan state courts, and would not apply to federal prosecutors or federal court actions.

Opposition

None known.

Prior Action by Representative Assembly

None known.

Fiscal and Staffing Impact on State Bar of Michigan

None known.

Part 6: Fiscal and Staff Impact

- State the known fiscal and/or staff impact of the proposal on the State Bar of Michigan or simply state “impact unknown”

Synopsis

The proposed resolution supports an amendment to the Michigan Court Rules to prohibit the compelled production of information or lawyer’s testimony related to the lawyer’s representation of a client except upon a showing of exigent circumstances or a showing of substantial need after exhaustion of efforts to obtain the information from other sources. The amendment would make the requesting party responsible to the lawyer for the cost of production and testimony.

Background

The proposed resolution is the recommendation of the State Bar’s Task Force on Attorney-Client Privilege. The Final Report of the Task Force is attached. The proposed amendment would apply to all actions in Michigan state courts, and would not apply to federal prosecutors or federal court actions.

Opposition

None known.

Prior Action by Representative Assembly

None known.

Fiscal and Staffing Impact on State Bar of Michigan

None known.

Part 7: State Bar of Michigan Position

By vote of the Representative Assembly on [date of session]

- ▣ Should the Representative Assembly adopt the above resolution [cite the issue using the exact same language used in the form of a question in Part 1: The Issue]?
- ▣ (a) Yes
- ▣ (b) No

<u>Background</u>
The proposed resolution is the recommendation of the State Bar's Task Force on Attorney-Client Privilege. The Final Report of the Task Force is attached. The proposed amendment would apply to all actions in Michigan state courts, and would not apply to federal prosecutors or federal court actions.
<u>Opposition</u>
None known.
<u>Prior Action by Representative Assembly</u>
None known.
<u>Fiscal and Staffing Impact on State Bar of Michigan</u>
None known.
STATE BAR OF MICHIGAN POSITION By vote of the Representative Assembly on September 27, 2007
The above Resolution should be adopted.
(a) Yes
or
(b) No

When to Submit a Proposal

- Matters to be considered for the Assembly calendar must be submitted and postmarked no later than 42 days before the Assembly's next scheduled meeting
- <http://www.michbar.org/generalinfo/repasssembly.cfm>
- This is the link to the Representative Assembly's home page. Scroll down the page to the "Meetings" section to view the list of upcoming RA meeting dates and locations

Representative Assembly

2014-2015 Officers

Chair: Vanessa Peterson Williams
Vice Chair: Daniel D. Quick
Clerk: Fred K. Herrmann

[List of Assembly Chairs PDF](#)

2014-2015 Members

- [Members Listed by Circuit PDF](#)

Meetings

- April 25, 2015, Lansing Community College West
- October 8, 2015, Suburban Collection Showplace, Novi

Submitting and Sponsoring a Proposal

- Proposals must be submitted to an eligible sponsor from the Representative Assembly
- Who is eligible to submit and sponsor a proposal for Representative action?
 - Any Representative Assembly delegate
 - Any member of the Board of Commissioners
 - Any State Bar Section or Committee by 1/3 vote of its members
 - Any Local Bar Association
- Once your proposal is submitted to an eligible sponsor, they then submit that proposal to the Assembly Clerk at the Michael Franck Building, 306 Townsend St., Lansing, MI 48933

After You Submit a Proposal, What's Next?

- Your proposal is submitted to the Assembly for discussion and a vote
- You may attend the Assembly meeting where your proposal is being presented, even if you are not a member
- You may contact your circuit's delegate to the Assembly to find out what happened with your proposal
- You may seek to become a member of the Assembly by becoming a delegate of your Judicial District
 - http://www.michbar.org/generalinfo/pdfs/ra_brochure.pdf

Production

This PowerPoint was produced by the Drafting Committee of the Representative Assembly of the State Bar of Michigan

- ▣ Drafting Committee
 - ▣ Michael W. Thomsen, Chairperson
 - ▣ Richard M. Barron, Member
 - ▣ Ashley R. Garchow, Member
 - ▣ John A. Hubbard, Member
 - ▣ Lisa D. Janos, Member