

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

*
ADM File No. 2011-26

*

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 of Michigan's position on this matter is to support with recommended amendments.

The total membership of the Civil Procedure & Courts Committee is 18.

The position was adopted after discussion and vote at a scheduled meeting. The number of members in the decision-making body is 18. The number who voted in favor to this position was 13. The number who voted against it was 0.

Report on Public Policy Position

Name of committee:

Civil Procedure & Courts Committee

Contact person:

Daniel D. Quick

E-Mail:

DQuick@dickinson-wright.com

Proposed Court Rule or Administrative Order Number:

[2011-26 - Proposed Amendment of Rule 2.403 of the Michigan Court Rules](#)

The proposed amendment of MCR 2.403(O)(8) would add a reference to a motion for rehearing or reconsideration (consistent with the Court of Appeals opinion in *Meemic Ins Co v DTE Energy Co*, 292 Mich App 278 [2011]), as well as a reference to other postjudgment motions to toll the period of time in which a party may file a request for case-evaluation sanctions.

Date position was adopted:

May 18, 2013

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:

18

Number who voted in favor and opposed to the position:

13 Voted for position

0 Voted against position

0 Abstained from vote

5 Did not vote

Position:

Support with Recommended Amendments

Explanation of the position, including any recommended amendments:

The committee voted to support with modification.

- Insert “denying a timely motion:” to (O)(8) after “order” so it modifies all subparts, and delete that language from (O)(8)(1).
- The Committee proposes the deletion of subparagraph (iv). The concern is that a party could file a very belated or frivolous post-judgment motion simply in order to resurrect an otherwise time-barred motion for

case evaluation sanctions. Given subparagraphs (i)-(iii), the Committee could not come up with a scenario where this sort of provision would be necessary. It is recognized that MCR 2.625(F) on taxation of costs includes such language, but the dollar value between costs and fees suggests less likelihood of manipulation of the cost rule.

- Similar changes should be made to the offer of judgment rule and MCR 2.625(F) should have rehearing/reconsideration added.

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

http://courts.mi.gov/Courts/MichiganSupremeCourt/rules/court-rules-admin-matters/Court%20Rules/2011-26_2013-03-20_formatted%20order.pdf