

COURTROOM TREATMENT OF MINORITY LITIGANTS, WITNESSES, JURORS, AND ATTORNEYS

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Race/Ethnic Recommendation V-1: Both judges of courts of record and quasi-judicial officers should be educated about this issue as a regular part of their ongoing continuing legal education. Wherever possible such education should be a part of training on substantive areas of law and judging as a curriculum component of all training which is offered to the bench on a required or non-mandated basis (Michigan Judicial Institute, the Institute of Continuing Legal Education, Civil Service and Appropriate Administrative Agencies).

Summary of condition prompting 1989 recommendation:

There is a perception on the part of racial and ethnic minorities and also of many non-minorities of the justice systems discrimination and insensitivity. There is evidence that such behaviors do exist.

Research Methodology in 1997:

Circuit Court Chief Judges Questionnaires

District Court Chief Judges Questionnaires

Probate Court Chief Judges Questionnaires

Circuit Court Judges Questionnaires

Friend of the Court Questionnaires

Focus group

Anecdotal Information

Telephone inquiry to Friends of the Court

Status of the implementation of the recommendation in 1997:

The State Court Administrative Office, the Michigan Judicial Institute and the Institute of Continuing Legal Education report that they have provided training on this issue to new judges, court employees and attorneys. They stress sensitivity in all seminars and materials.

Recommended Action:

This recommendation has been partially implemented. The 1989 Task Force recommendation should be implemented as written.

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Race/Ethnic Recommendation V-2: Educational materials and guidelines should be amended and designed to identify and appropriately advise judges on problems related to racial/ethnic issues and judicial decision-making.

Summary of condition prompting 1989 recommendation:

There is a perception on the part of racial and ethnic minorities and also of many non-minorities of the justice system's discrimination and insensitivity. There is evidence that such behaviors do exist.

Research Methodology in 1997:

Circuit Court Chief Judges Questionnaires

District Court Chief Judges Questionnaires

Probate Court Chief Judges Questionnaires

Circuit Court Judges Questionnaires

Friend of the Court Questionnaires

Focus group

Anecdotal Information

Telephone inquiry to Friends of the Court

Status of the implementation of the recommendation in 1997:

The State Court Administrative Office, the Michigan Judicial Institute and the Institute of Continuing Legal Education report that they have provided training on this issue to new judges, court employees and attorneys. They stress sensitivity in all seminars and materials.

Recommended Action:

This recommendation has been partially implemented. The 1989 Task Force recommendation should be implemented as written.

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Race/Ethnic Recommendation V-3: Attorneys should be educated about these issues as a regular part of their on-going Continuing Legal Education. Wherever possible such education should be a part of training on substantive and procedural areas of law as a curriculum component of all training which is offered to the bar on a required or non-mandated basis.

Summary of condition prompting 1989 recommendation:

Both the perception and reality existed that the justice system was discriminatory and insensitive to minorities. A minority lawyer's ability to attract and service clients was affected by the quality of treatment afforded the lawyer by judges, court personnel and other lawyers.

Research Methodology in 1997:

Questionnaire to Institute for Continuing Legal Education

Status of the implementation of the recommendation in 1997:

In the past three years, the Institute for Continuing Legal Education reported no training on the Michigan Rules of Professional Conduct as they relate to the issues of gender, race or ethnic discrimination; the impact of gender, race, or ethnic bias on issues related to court system interaction and case or controversy outcome; or model employment policies which contain gender, race, or ethnic neutral standards for recruitment and interviewing, mentoring, and prescribing exit interviews within the legal profession.

However, the commentary supplied by the Institute of Continuing Legal Education outlines numerous substantive law areas where gender, race and ethnic discrimination are discussed in a broader context. In addition to training on issues of discrimination and general model employment policies, the Institute of Continuing Legal Education publishes several books: *Michigan Wrongful Discharge and Employment Discrimination*, *Employment Law in Michigan: An Employer's Guide*, and *Sexual Harassment Law: A Michigan Practitioner's Guide*. The last book includes a chapter on "Sexual Harassment and the Professional".

Recommended Action:

This recommendation has been partially implemented. The 1989 Task Force recommendation should be implemented as written.

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Race/Ethnic Recommendation V-4: The Administrative Procedures Act (MCL 24.279; MSA 3.560 (179) Presiding Officer's Designation, Disqualification and Inability) should be amended to prohibit such conduct by quasi-judicial officers and should provide appropriate sanctions.

Summary of condition prompting 1989 recommendation:

Both the perception and reality existed that the justice system was discriminatory and insensitive to minorities. A minority lawyer's ability to attract and service clients was affected by the quality of treatment afforded the lawyer by judges, court personnel and other lawyers.

Research Methodology in 1997:

Examination of the statute

Status of the implementation of the recommendation in 1997:

No amendments have been enacted, as recommended in 1989.

Recommended Action:

This recommendation has not been implemented. The 1989 Task Force recommendation should be implemented as written.

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Race/Ethnic Recommendation V-5: Just as the Michigan Rules of Professional Conduct and the Code of Judicial Conduct govern overt behaviors, effort should be made to ensure equal and appropriate access to judges and court personnel for all counsel, and to educate both judicial and court personnel on this issue.

Summary of condition prompting 1989 recommendation:

There is a perception on the part of racial and ethnic minorities and also of many non-minorities of the justice system's discrimination and insensitivity. There is evidence that such behaviors do exist.

A minority lawyer's ability to attract and service clients is affected by the quality of treatment afforded the lawyer by judges, court personnel and other lawyers. Testimony was received by the 1989 Task Force, which indicated that minority lawyers and litigants are treated differently. The apparent ease of access that non-minority lawyers have to judges and court personnel is as detrimental to the minority lawyer as overt negative behaviors and comments.

Research Methodology in 1997:

Michigan Judicial Institute Questionnaire

Status of the implementation of the recommendation in 1997:

The Michigan Judicial Institute has developed diversity training and related programs. Such training is mandatory for new judges and magistrates.

Recommended Action:

This recommendation has been partially implemented. Further implementation requires:

- The Michigan Judicial Institute should continue its efforts to provide training and information on equal access to the courts — especially for chief judges and court administrators.
- The Supreme Court should make such training mandatory for new chief judges.

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Race/Ethnic Recommendation V-6: Increase the amount of participation by the trial bench in pre-trial stages of litigation, with heightened race/ethnic consciousness.

Summary of condition prompting 1989 recommendation:

There is a perception on the part of racial and ethnic minorities and also of many non-minorities of the justice system's discrimination and insensitivity. There is evidence that such behaviors do exist.

A minority lawyer's ability to attract and service clients is affected by the quality of treatment afforded the lawyer by judges, court personnel and other lawyers. Testimony was received by the 1989 Task Force, which indicated that minority lawyers and litigants are treated differently. The apparent ease of access that non-minority lawyers have to judges and court personnel is as detrimental to the minority lawyer as overt negative behaviors and comments.

Research Methodology in 1997:

Discussions with State Court Administrative Office personnel

Status of the implementation of the recommendation in 1997:

The Supreme Court has adopted court rules and policies pertaining to case flow management and docket control issues.

Recommended Action:

This recommendation has been partially implemented. Further implementation requires:

- The State Court Administrative Office should continue to address these issues when developing model policies, standards, procedures and guidelines.
- Training programs to address these issues should be developed.

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**Race/Ethnic Recommendation V-7: Institute educational programs for judicial
and court personnel to increase consciousness of race/ethnic issues.**

Summary of condition prompting 1989 recommendation:

There was a perception on the part of racial and ethnic minorities and also of many non-minorities of the justice system's discrimination and insensitivity. The 1989 Task Force found evidence that such behaviors do exist.

A minority lawyer's ability to attract and service clients is affected by the quality of treatment afforded the lawyer by judges, court personnel and other lawyers. Testimony was received by the Task Force, which indicated that minority lawyers and litigants were treated differently. The apparent ease of access that non-minority lawyers have to judges and court personnel was as detrimental to the minority lawyer as overt negative behaviors and comments.

Research Methodology in 1997:

Michigan Judicial Institute Questionnaire

Status of the implementation of the recommendation in 1997:

The Michigan Judicial Institute has developed diversity (and other) training programs. Such training is mandatory for new judges and magistrates.

Recommended Action:

This recommendation has been partially implemented. In addition, the State Bar of Michigan Task Force recommends:

- The Michigan Judicial Institute should include these issues in training for chief judges and court administrators and such training should be mandatory for chief judges in addition to new judges and magistrates.

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Race/Ethnic Recommendation V-8: Increase the number of racial/ethnic minorities in the alternate dispute resolution process. (See recommendations under professional opportunities for minorities).

Summary of condition prompting 1989 recommendation:

The 1989 Task Force determined that racial/ethnic minorities were under-represented in the alternate dispute resolution process. Statistical data compiled by that Task Force indicated a paucity of minority mediators throughout the circuits.

Though no statistical data was available to indicate the number of minorities appointed as arbitrators and special masters, anecdotal testimony offered at public hearings by litigants and minority bar associations supported the conclusion that the number of minority arbitrators and special masters was also under-represented.

Research Methodology in 1997:

Circuit Court Chief Judges Questionnaires

Anecdotal Information

Status of the implementation of the recommendation in 1997:

By order of the Michigan Supreme Court dated March 5, 1997, the Michigan Court Rules were amended to adopt a new rule regulating the selection process for mediation panels. MCR 2.404, effective July 1, 1997, implements the specific mechanisms enumerated in Race/Ethnic Recommendation V-12 of the 1989 Task Force report.

MCR 2.404 standardizes the process of selecting mediators. The rule specifically requires that the mediation process be free from race/ethnic and gender bias.

These changes should promote the goal of increasing the number of racial/ethnic minorities in the alternate dispute resolution process.

Recommended Action:

This recommendation has been partially implemented.

- No further action is recommended until the chief judges of the court have the opportunity to implement the provisions of MCR 2.404, effective July 1, 1997. In May the effective date of these rules were pushed back to October 1, 1997. Moreover, the State Court Administrative Office will need the opportunity to evaluate the first annual reports filed by the chief judges pursuant to MCR 2.404 (D)(1) to determine the extent of compliance, and the impact of the court rule amendment on increasing the number of minority mediators.

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APPOINTMENT AND COMPENSATION OF ATTORNEYS TO FEE-GENERATING POSITIONS

Race/Ethnic Recommendation V-9: Courts should be required to maintain records of all appointments to fee-generating positions by type of position, race/ethnicity of the appointee and the amount of fee eventually generated. This data should be reported to the State Court Administrators office on a regular basis. These appointment records should include all indigent defense appointments, guardian-ad-litem, next friend, special fiduciary and all other court-appointed counsel whether or not fees are paid from public moneys or other sources.

Summary of condition prompting 1989 recommendation:

In determining the access of minority attorneys to court appointments, there was evidence that minority attorneys did not receive an equitable share of the available appointments in every jurisdiction of the State, nor did they have the same access as majority attorneys to cases which are more serious in nature, higher profile or more economically rewarding.

Research Methodology in 1997:

Discussions with State Court Administrative Office personnel

Circuit Court Chief Judges Questionnaires

District Court Chief Judges Questionnaires

Probate Court Chief Judges Questionnaires

Status of the implementation of the recommendation in 1997:

Supreme Court Administrative Order 90-45 requires courts to provide information on attorney appointments. Under this order, the State Court Administrative Office has the responsibility for monitoring these appointments.

Questionnaire responses indicated low levels of implementation, ranging between a high of thirty-five percent (35%) and a low of fifteen percent (15%). The records which were kept related primarily to billing/accounting purposes and not to the race or ethnicity of appointed lawyers. Most indicated that a relatively small number of lawyers are involved. Some courts parcel appointments on a bid/contract basis or to the public defender which makes record keeping unnecessary. Others simply rotate appointments through a list of qualified attorneys. Barriers listed included no need to monitor and a very small number of attorneys to do the appointments. Interestingly, a number of respondents listed limitations of existing available technology as a barrier to implementation.

In this area there is almost no implementation of the recommendation to keep and monitor records with regard to appointments to fee-generating positions on the basis of race or ethnicity. The

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survey responses suggest that the perception is that there is little or no need to do so either because of small numbers or there is no existing disparity.

Recommended Action:

This recommendation has been partially implemented. Further implementation requires:

- A procedure should be developed to utilize the data provided to identify problem areas and require improvement.

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Race/Ethnic Recommendation V-10: Bar Associations should develop mechanisms for educating the local bench about the availability and qualifications of minority attorneys for appointment. This can include sponsoring opportunities for judges to meet and participate in social, educational and professional activities with minority attorneys; the identification of qualified minority attorneys available for appointments in multi-county districts; and the sponsoring of special informational programs by the bar to discuss the barriers to full participation of minority lawyers in the appointment process.

Summary of condition prompting 1989 recommendation:

In determining the access of minority attorneys to court appointments, the 1989 Task Force found that there was evidence that minority attorneys did not receive an equitable share of the available appointments in every jurisdiction of the State, nor did they have the same access as majority attorneys to cases which are more serious in nature, higher profile or more economically rewarding.

Research Methodology in 1997:

Circuit Court Chief Judges Questionnaires

District Court Chief Judges Questionnaires

Probate Court Chief Judges Questionnaires

Questionnaire to local and special purpose bar associations

Questionnaire to State Bar Sections

Status of the implementation of the recommendation in 1997:

Only a small percentage of local bar associations reported that mechanisms had been developed for educating the local bench about the availability and qualifications of minority attorneys for these appointments, and none of the respondents had sought State Bar assistance. Most were unaware that such assistance was available. The courts reported low compliance with either monitoring appointments by the race/ethnicity of the attorney, and almost none of the courts had developed programs to ensure that minorities received appointments. Many courts, however, had developed selection processes for making appointments, making bar association involvement unnecessary. A recent example of bar association involvement which resulted in the implementation of a new system for making criminal appointments is Oakland County Circuit Court.

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Recommended Action:

This recommendation has been partially implemented. Further implementation requires:

- Where needed, bar associations should develop mechanisms for notifying the local bench about the availability and qualifications of minority attorneys for appointment. These mechanisms could include sponsoring opportunities for judges to meet and participate in social, educational and professional activities with minority attorneys; the identification of qualified minority attorneys available for appointments in multi-county districts; and the sponsoring of special informational programs by the bar to discuss the barriers to full participation of minority lawyers in the appointment process.

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Race/Ethnic Recommendation V-11: Courts should also develop and sponsor outreach programs to encourage minority attorneys to accept appointments in districts where there are no local minority practitioners. These programs may include special compensation for mileage when extensive travel is required and creation of local initiatives to assure that minority attorneys are afforded full and equal access to the benefits of the profession.

Summary of condition prompting 1989 recommendation:

In determining the access of minority attorneys to court appointments, the 1989 Task Force found that there was evidence that minority attorneys did not receive an equitable share of the available appointments in every jurisdiction of the State, nor did they have the same access as majority attorneys to cases which are more serious in nature, higher profile or more economically rewarding.

Research Methodology in 1997:

Circuit Court Chief Judges Questionnaires

District Court Chief Judges Questionnaires

Probate Court Chief Judges Questionnaires

Status of the implementation of the recommendation in 1997:

The judicial questionnaires sought information on whether courts have been proactive in seeking minority applicants for appointments in areas where there are no minority attorneys. Implementation is almost non-existent, ranging from zero percent (0%) to ten percent (10%). In region 1, respondents indicated they have plenty of minority attorneys so there is no need for outreach programs. Others cited reasons for no outreach programs include a lack of resources, lack of authority over the defenders office and that a contract controls appointments.

It is clear that this kind of recommendation has little priority among respondents and the necessary resources for such programs are unlikely to be available, however laudable the goals.

Recommended Action:

This recommendation has not been implemented. The 1989 Task Force recommendation should be implemented as written. In addition, the State Bar of Michigan Task Force recommends:

- Per MCR 2.404, courts will submit an annual report to the State Court Administrative Office on the operation of the court's mediation program. The State Court Administrative Office will be developing reporting criteria in consultation with judges, court administrators, mediation

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clerks, and other interested parties in the coming months, with final report criteria to be established by October 1, 1997.

- A procedure should be developed to utilize the data provided to identify problem areas and require improvement.

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APPOINTMENT AND COMPENSATION OF MEDIATORS, ARBITRATORS AND SPECIAL MASTERS

Race/Ethnic Recommendation V-12: The number of minorities appointed to mediation panels should be increased through the use of the following mechanisms:

- a. consistent, established objective criteria for appointment; a clear, advertised and available application process; public access to mediation statistics profiling selection and panels; and inclusion of minority representatives as plaintiff, defense and neutral mediators.
- b. Courts should monitor any agencies to which they refer cases for mediation for racial and ethnic diversity and should decline referrals to any agency, which does not fairly utilize mediators from racial and ethnic minorities. Where mediators are routinely appointed by individual judges, efforts should be made to report and review those appointments based upon the same considerations.

Summary of condition prompting 1989 recommendation:

Administrative Order 1987-6 of the Michigan Supreme Court dated September 15, 1987, charged the 1989 Task Force on Racial/Ethnic Issues in the Courts "to recommend revisions in rules, procedures and administration of the courts to assure equal treatment for men and women, free from race or gender bias."

In response to the finding by the 1989 Task Force that mediation panels do not include a representative number of minority participants, the Task Force proposed mechanisms designed to increase the number of minority appointed attorneys appointed to mediation panels.

Research Methodology in 1997:

Circuit Court Chief Judges Questionnaire

Anecdotal Information

Status of the implementation of the recommendation in 1997:

A questionnaire was sent to agencies and judges who appoint mediators. The questionnaire sought information relative to the general administration of the mediation process, including methods used to appoint mediators in the circuits of the state. Each portion of Recommendation V-12 formed the basis for an inquiry on the questionnaire. This questionnaire also sought demographic information from 1994 to the present relative to the composition of mediation pools utilized by the circuits.

Of the 57 counties surveyed, only 10 counties provided some information relative to the demographic composition of its mediation pool. Moreover, 7 of the 10 responses were small circuits with low minority population.

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Of the eight largest circuits with the highest minority population, only one, Kent County, provided specific demographic information, which identified the number of mediators by gender and racial/ethnic minority. Of those circuits which responded to the questionnaire concerning the general administration of its process, but did not provide demographic information, most indicated that such information was not maintained in their circuit.

The responses to the questionnaire indicated a lack of uniformity in the administration of mediation systems among circuit courts. Moreover, a number of circuit courts reported practices which were inconsistent with the recommendations of the 1989 Task Force.

MCR 2.404 governs the selection standards for mediation appointment processes and addresses the concerns brought forward in this recommendation.

Recommended Action:

This recommendation has been partially implemented. Further implementation requires:

- Compliance with the new mediation rule, MCR 2.404, should be monitored and reevaluated after one full year under the new rule (end of 1998).
- The Supreme Court and the State Court Administrative Office should provide leadership and supervision in this area by adopting reporting standards and guidelines.

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APPOINTMENT AND COMPENSATION OF MEDIATORS, ARBITRATORS AND SPECIAL MASTERS

Race/Ethnic Recommendation V-13: To the extent that courts, either by practice or Court Rule, refer cases to Alternative Dispute Resolution, assignments as mediators, arbitrators or special masters shall be accessible to counsel regardless of race, ethnicity or gender. The referring court or judge has the affirmative obligation to ensure that any private agency receiving such assignments utilizes lawyers from racial and ethnic minorities and from both genders.

Summary of condition prompting 1989 recommendation:

The 1989 Task Force collected testimony that documented continued abuse of race/ethnic litigants and attorneys in the mediation process. It was found that some mediation panel members were insensitive to the existence and impact of race/ethnic bias in their decision-making and their treatment of minority attorneys and litigants. Additionally, mediation panels do not include a representative number of minority participants.

Status of the implementation of the recommendation in 1997:

MCR 2.404(D)(2), effective July 1, 1997, specifically requires the courts, court employees and attorneys involved in the mediation process to assure as far as reasonably possible, racial, ethnic and gender diversity in the mediation process.

However, assignments relating to other forms of alternate dispute resolution, including arbitrators and special masters, do not fall within the mediation rule. Thus, there is no court rule that requires referring judges or attorneys to take steps necessary to assure that arbitrators and special masters appointed by the courts reflect racial/ethnic and gender diversity. Referring judges are also not required to maintain demographic information concerning the appointment of arbitrators and special masters.

Research Methodology in 1997:

Review of Michigan Court Rules

Review of State Court Administrative Orders

Recommended Action:

This recommendation has been partially implemented. Further implementation requires:

- The Supreme Court should revise or adopt the Michigan Court Rule provisions relating to arbitration and other forms of alternate dispute resolution. This Rule should mandate that the court, court employees, attorneys, or outside agencies involved in the alternate dispute resolution process take all steps necessary to assure the use of arbitrators and special masters fairly reflect the racial, ethnic and gender diversity of members of the State Bar members in the involved jurisdiction (See MCR 2.404(D)(2) as it provides for mediators).

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Race/Ethnic Recommendation V-14: Appointing agencies should establish standards for conduct of mediation panels, arbitrators, and special masters, and make these individuals aware that discrimination is not acceptable in any form or manner in the discharge of their duties.

Summary of condition prompting 1989 recommendation:

The 1989 Task Force collected testimony that documented continued abuse of race/ethnic litigants and attorneys in the mediation process. It was found that some mediation panel members were insensitive to the existence and impact of race/ethnic bias in their decision making and their treatment of minority attorneys and litigants. Additionally, mediation panels do not include a representative number of minority participants.

Research Methodology in 1997:

Circuit Court Chief Judges Questionnaire

Anecdotal Information

Status of the implementation of the recommendation in 1997:

This should be separated into two areas: court rule mediation, and other more intensive or advanced forms of alternative dispute resolution. No respondent monitored or trained those providing facilitation, arbitration, or any alternative dispute resolution other than court rule mediation.

In Region I courts, only twenty percent (20%) of the respondents offered any formal training to their mediators. Of those offering training, only twenty-five percent (25%) made this training mandatory, and zero percent (0%) offered training on eliminating racial, ethnic, and gender bias.

In Region 2 courts, thirty-three percent (33%) of the respondents offered formal training, and fifty percent (50%) of those mandated training, but zero percent (0%) offered any training on eliminating bias.

In Region 3, one respondent offered no formal training, or any bias elimination training. The other respondent mandated formal training for all mediators offered annually, with a component of the training focused on eliminating bias.

In Region 4, no respondent offered any formal training, or mandated it.

Regrettably, every region reported receiving complaints involving gender bias in mediation, and two regions reported complaints regarding ethnic bias. Additionally, several anecdotal incidents regarding ethnic, racial and gender bias were collected just in the metropolitan Detroit area. These included:

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- a client being termed “a dumb Polack” during the mediation by the mediator;
- a client being demeaned by a mediator as a “retard” due to diminished mental capacity;
- a mediator inquiring as to the race of the client in question, and devaluing the award because “if your client is black, you won’t get any blacks on your jury in Oakland County”;
- an attorney being told that the life of a black boy is not as valuable as a boy from Grosse Pointe, in regards to where his client resided; and
- a female attorney who was referred to as “honey” throughout the mediation by one of the mediators.

Recommended action:

This recommendation has been partially implemented. The 1989 Task Force recommendation should be implemented as written. In addition, the State Bar of Michigan Task Force recommends:

- Training should be provided to all mediators on the adverse effect of bias and discrimination on the justice system.
- Standards of conduct should be established that prohibit discrimination in the performance of the duties of mediators, arbitrators and special masters.
- The courts must allocate funding if they expect training to occur.

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APPOINTMENT AND COMPENSATION OF MEDIATORS, ARBITRATORS AND SPECIAL MASTERS

Race/Ethnic Recommendation V-15: Minority representatives should be present in all aspects of mediation, arbitration, or alternative dispute resolution and the compensation of these positions shall be provided without disparity based upon the race or ethnicity of the individuals.

Summary of condition prompting 1989 recommendation:

The 1989 Task Force report found racial and ethnic minorities to be under-represented in all aspects of mediation, and therefore, not getting a fair share of the court-ordered compensation being generated by mediation.

Research Methodology in 1997:

Circuit Court Chief Judges Questionnaire

Status of the implementation of the recommendation in 1997:

Minorities are better represented now in the mediation process than they were in 1989, but they are not represented at the percentage of the legal profession that they currently comprise. No statistics are available for facilitation, arbitration, or anything other than court rule mediation. In this area, all mediators are compensated equally, but not all courts responding to the survey have a mechanism in place to guarantee that each mediator selected serves an equal number of times, and has the opportunity to make the same income.

In Region 1, sixty percent (60%) of the respondents have a mechanism to guarantee equal opportunity to serve.

In Region 2, one hundred percent (100%) of the respondents have this mechanism in place.

In Region 3, one respondent (fifty percent [50%]) has the mechanism in place.

In Region 4, only forty-six percent (46%) of the respondents have this mechanism in place, most often citing their small size, and the difficulty or recruiting any mediators as a factor.

Additionally, several respondents reported that few, if any, racial minorities practiced in their jurisdictions or the surrounding jurisdictions and that minority applicants were not available in any practical fashion.

Recommended action:

This recommendation has been partially implemented. In addition, the State Bar of Michigan Task Force recommends:

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- The new proposed mediation rule, MCR 2.404, ostensibly will accomplish this for mediation. There may be the need to extend this oversight to other forms of alternative dispute resolution. Monitor compliance with the new mediation rule and reevaluate after one full year.
- Make available to the non-complying courts the methods used by those courts that do comply. Use the State Court Administrative Office as a clearinghouse for this information.