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June 13, 2012

The Honorable John Walsh  
Speaker Pro Tempore  
State Capitol  
P.O. Box 30014  
Lansing, MI 48909-7514

**Re: HB 5128 – Business Court**

Dear Speaker Pro Tempore Walsh:

At its June 8, 2012 meeting, the State Bar of Michigan’s Board of Commissioners unanimously voted to support the concept of creating business courts, and the purposes described in establishing business courts as proposed in Section 1086. The Board also respectfully requests the following amendments:

- Recommend that the website contemplated in Sec 1089, subsection 3 be hosted by the State Court Administrative Office to allow for easy and consistent statewide access to opinions.
- Delete provisions in Section 1087 subsections 5 and 6 regarding judicial discretion to remove or add a case. Suggested revised language follows:

Revised Sec 1087, subsection 5:

AN ACTION ASSIGNED TO A BUSINESS COURT JUDGE MAY, ~~WITHIN THE DISCRETION OF THE BUSINESS COURT JUDGE~~, BE REASSIGNED BY BLIND DRAW TO ANOTHER JUDGE ACCORDING TO THE PLAN SUBMITTED FOR THE OPERATION OF THE BUSINESS COURT IN SECTION 1086 (1) AND (2) IF THE ACTION CEASES TO INCLUDE A BUSINESS OR COMMERCIAL DISPUTE.

Sec 1087, subsection 6:

AN ACTION THAT DOES NOT INITIALLY INCLUDE A BUSINESS OR COMMERCIAL DISPUTE BUT THAT SUBSEQUENTLY INCLUDES A BUSINESS OR COMMERCIAL DISPUTE AS A RESULT OF A CROSS-CLAIM, COUNTERCLAIM, THIRD-PARTY COMPLAINT, AMENDMENT, OR ANY MODIFICATION OF THE ACTION, ~~MAY, WITHIN THE DISCRETION OF THE ASSIGNED JUDGE, SHALL~~ BE REASSIGNED BY BLIND DRAW TO A BUSINESS COURT AFTER THE ACTION IS MODIFIED TO INCLUDE A BUSINESS OR COMMERCIAL DISPUTE ACCORDING TO THE PLAN SUBMITTED FOR THE OPERATION OF THE BUSINESS COURT IN SECTION 1086 (1) AND (2).

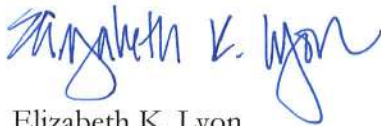
Rationale:

Reassignment of cases should be clear given the number of actions that would need to be reviewed. The proposed amendments would further protect against sole judicial discretion to reassign cases but also assure that cases properly in the jurisdiction of the business court be reassigned if a subsequent action warrants the reassignment.

- Revise Sec 1087, subsection 7 to delete references to subsection 5 & 6 because it is no longer necessary given the above recommendation:  
UPON MOTION OF A PARTY, THE CHIEF JUDGE OF THE JUDICIAL CIRCUIT MAY REVIEW DETERMINATION UNDER SUBSECTION (3), ~~(5)~~, AND ~~(6)~~ FOR AN ABUSE OF DISCRETION.
- Request a delayed implementation date to allow the current pilot sites in Kent, Macomb and Oakland to provide data and to allow for the website to index written opinions to be developed.

Thank you for introducing this important legislation.

Sincerely,



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