

February 26, 2021

Larry S. Royster  
Clerk of the Court  
Michigan Supreme Court  
P.O. Box 30052  
Lansing, MI 48909

**RE: ADM File No. 2020-20 – Proposed Amendment of Rule 2.105 of the Michigan Court Rules**

Dear Clerk Royster:

At its February 23, 2021 meeting, the Executive Committee of the State Bar of Michigan (the Committee) considered ADM File No. 2020-20.<sup>1</sup> In its review, the Committee considered a recommendation from the Civil Procedure & Courts Committee. The Committee voted to support the rule proposal with additional amendments to Rule 2.105.

The Committee recommends changing “member” to “manager” in subsection (H)(1) because certain members of an LLC – particularly a passive investor member or a member where management of the LLC is vested in managers pursuant MCL 450.4401 – may not be appropriate recipients of service of process. These members have no actual role in the operation of the LLC and therefore are more akin to corporate shareholders who are not designated as appropriate recipients of service under Rule 2.105(D) than general partners in a partnership who are designated as appropriate recipients of service under Rule 2.105(C). By substituting the term “manager” in place of “member” in proposed subsection (H)(1), the appropriate recipients of service would include the registered agent and the actual designated managers of the LLC or members who serve as managers by default in member-managed LLCs.

For the same reasons, the Committee recommends deleting the reference to member in subsection (H)(2).

The Committee also suggests a technical change to subsection (H)(3) to make the language of the rule more closely align with the language in the Michigan Limited Liability Company Act.

The following are the amendments proposed by the Committee:

**Rule 2.105 Process; Manner of Service**

(A)-(G) [Unchanged.]

- (H) Limited Liability Company. Service of process on a limited liability company may be made by:
- (1) serving a summons and a copy of the complaint on a ~~member~~ manager or the resident agent;
  - (2) serving a summons and a copy of the complaint on a ~~member or~~ person in charge of an office or business establishment of the limited liability company and sending a summons and a copy of the complaint by registered mail, addressed to the registered office of the limited liability company.

---

<sup>1</sup> Under Article III, §9 of the State Bar of Michigan Bylaws, “[t]he Executive Committee may take a position on a proposed Court Rule if the deadline for a response does not allow for consideration by the Board, provided the position is not inconsistent with policies adopted by the Board or Representative Assembly.”

- (3) If a limited liability company fails to appoint or maintain an agent for service of process, or ~~the agent for service of process cannot be found or served~~ service under subsections (1) and (2) cannot be accomplished through the exercise of reasonable diligence, service of process may be made by delivering or mailing by registered mail to the ~~director of the Department of Licensing and Regulatory Affairs~~ administrator (as defined in MCL 450.4102(2)(a)) a summons and copy of the complaint.

(H)-(K) [Relettered (I)-(L) but otherwise unchanged.]

We thank the Court for the opportunity to comment on the proposed amendment.

Sincerely,

A handwritten signature in black ink, appearing to read "Janet K. Welch". The signature is fluid and cursive, with a large initial "J" and "W".

Janet K. Welch  
Executive Director

cc: Anne Boomer, Administrative Counsel, Michigan Supreme Court  
Robert J. Buchanan, President