

January 31, 2023

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

**RE:    ADM File No. 2022-34 – Proposed Amendments of Rules 3.913, 3.943, 3.977, and 3.993 and Proposed Addition of Rule 3.937 of the Michigan Court Rules**

Dear Clerk Royster:

At its January 20, 2023 meeting, the Board of Commissioners of the State Bar of Michigan considered ADM File No. 2022-34. In its review, the Board considered recommendations from the Bar's Access to Justice Policy Committee, Civil Procedure & Courts Committee, and Criminal Jurisprudence & Practice Committee, as well as the Children's Law Section and Appellate Practice Section. The Board voted unanimously to support the proposed amendments of Rules 3.913, 3.943, 3.977, and 3.993 of the Michigan Court Rules, as well as the addition of proposed Rule 3.937.

Navigating the juvenile justice system is a daunting challenge for far too many young people whose lack of familiarity with the procedural intricacy of the legal system may result in the accidental waiver of their appellate rights, often with profound consequences. By requiring that juveniles be fully advised of their rights at times and in a manner that will ensure understanding of those rights, this proposal will provide greater due process protection for these young people and result in better youth and system outcomes.

The Board also recommends that the Court's proposal be further amended to provide for the restoration of appellate rights in juvenile cases. Rule 6.428 currently permits restoration in criminal matters, but the Rules do not provide a similar mechanism in juvenile court cases. Therefore, the Bar proposes a new Rule 3.993(F), as follows:

If a party was denied the right to appellate review or the appointment of appellate counsel due to errors by the party's prior attorney or the court, or other factors outside the party's control, the trial court must issue an order restating the time in which to file an appeal or request counsel, except that the court must not issue any order which would extend the time for appealing an order terminating parental rights beyond 63 days from entry of the order terminating rights.

The Bar's proposed addition largely mirrors the comparable criminal rule, while also accounting for the unique limitation on appeals in cases involving termination of parental rights imposed by Rule 3.993(C)(2).

Thank you for the opportunity to comment on the proposed amendments.

Sincerely,



Peter Cunningham  
Executive Director

cc:     Sarah Roth, Administrative Counsel, Michigan Supreme Court  
        James W. Heath, President