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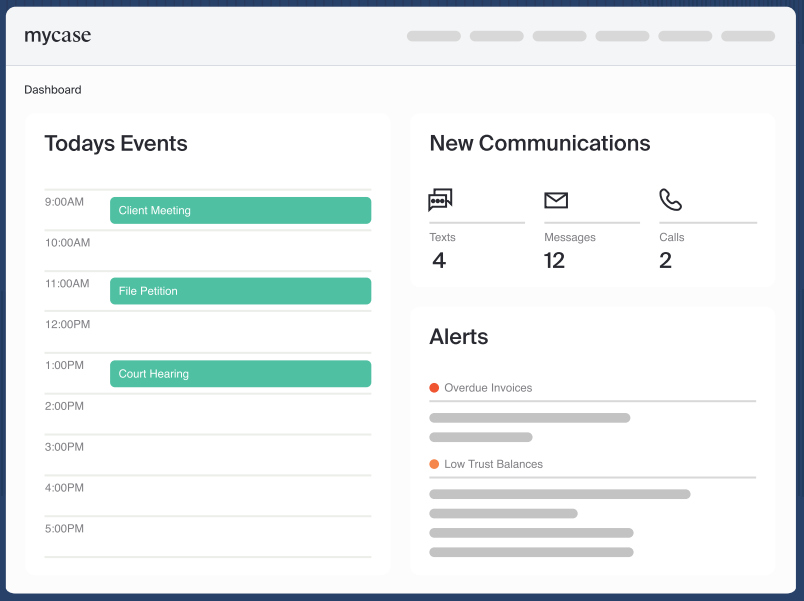

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SEPTEMBER 2022 | VOL. 101 | NO. 08

OF INTEREST

CELEBRATING 100 YEARS

Cover photo by Sarah Brown, State Bar of Michigan

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SEPTEMBER 2022 • VOL. 101 • NO. 08

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COLUMNS

NOTICES

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2022-23 MEETINGS

BOARD OF COMMISSIONERS

SEPTEMBER 16, 2022
NOVEMBER 18, 2022
JANUARY 20, 2023
MARCH 3, 2023 (IF NECESSARY)
APRIL 28, 2023
JUNE 9, 2023
JULY 21, 2023
SEPTEMBER 22, 2023

REPRESENTATIVE ASSEMBLY

SEPTEMBER 17, 2022
APRIL 29, 2023
SEPTEMBER 23, 2023

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MEMBER SUSPENSIONS
FOR NONPAYMENT OF DUES

The list of active attorneys who are suspended for nonpayment of their State Bar of Michigan 2021-2022 dues is published on the State Bar's website at michbar.org/generalinfo/pdfs/suspension.pdf.

In accordance with Rule 4 of the Supreme Court's Rules Concerning the State Bar of Michigan, these attorneys are suspended from active membership effective February 15, 2022, and are ineligible to practice law in the state.

For the most current status of each attorney, see our member directory at directory.michbar.org.

STATE BAR OF MICHIGAN

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IN BRIEF

SBM BOARD OF CANVASSERS CERTIFY 2022 ELECTION RESULTS

The State Bar of Michigan Board of Canvassers met virtually to certify the results of races for the SBM Board of Commissioners, Representative Assembly, Young Lawyers Section executive council, and Judicial Tenure Commission. Pictured (clockwise from top left) are Candace Crowley of Detroit, SBM Executive Director Peter Cunningham, Ponce Clay of Detroit, and Christopher Wickman of East Lansing.

Complete results of this year's State Bar of Michigan elections can be found on page 14.

SECTION BRIEFS

ALTERNATIVE DISPUTE RESOLUTION SECTION

The section hosts its ADR Conference virtually on Sept. 30-Oct. 1 and is pleased to announce that its annual awards ceremony will return live on Saturday, Oct. 1, at the Inn at St. John's in Plymouth. Registration information, news on upcoming events, past event materials, and the latest "The Michigan Dispute Resolution Journal" can be found at connect.michbar.org/adr/home.

ANTITRUST, FRANCHISING, AND TRADE REGULATION SECTION

The section hosts its fall forum and annual meeting on Oct. 6 at the Inn at St. John's in Plymouth starting at 5:30 p.m. The forum will focus on antitrust issues in transactions and franchising with speakers Cody Rockey of Dykema and Michael Cole of Fahey Schultz Burzych Rhodes. Please look for section e-blasts to sign up.

CANNABIS LAW SECTION

The section hosts its seventh annual conference from Sept. 29-Oct. 1 at the Grand Traverse Resort in Acme. Join us for an informative program on cannabis law-related topics. A registration link is available through the ICLE website and on the section's page. The section's annual meeting will be held prior to the start of the conference at 4 p.m. on Sept. 29 and will feature votes on council positions and bylaw amendments.

FAMILY LAW SECTION

The section holds its next council meeting on Oct. 8 in beautiful northern Michigan. The exact location has yet to be determined, but it will be somewhere in Traverse City. Breakfast starts at 9 a.m. and the meeting starts at 9:30 a.m. Contact Liisa Speaker at lspeaker@speakerlaw.com for more information. We look forward to seeing many northern Michigan section members in October!

HEALTH CARE LAW SECTION

The section's virtual annual meeting will be held from 1-4 p.m. on Thursday, Sept. 22. The theme is "The Great Resignation in the Health Care Landscape and Its Impact." There will be a presentation about avoiding NLRA violations and a second presentation on HIPAA compliance regarding reporting unauthorized access by former employees. For more details or to register, please email sstokesmi@gmail.com.

INSURANCE AND INDEMNITY LAW SECTION

Thank you to all who came out for our business meeting and program presented by Chirco Title President Michael Luberto at the historic Ford Piquette Avenue Plant in Detroit on July 14! Plans are underway for our annual meeting in October, when we will hold elections for our council. If interested, please email us at sbminsuranceindemnity@gmail.com. For details on our next meeting and program, visit us on Facebook or at connect.michbar.org/insurance/home.

LABOR & EMPLOYMENT LAW SECTION

The section remains engaged in issues impacting its members including amicus briefing and commenting on draft local rules. We are seeking articles for the January 2023 labor and employment law theme issue of the Michigan Bar Journal; contact Jim Hermon at jhermon@dykema.com with submissions. At the section's annual springboard event, Michigan judges joined more than 90 attendees to discuss the pandemic's impact on the court system. Follow the section on Facebook, LinkedIn, and Twitter to learn about upcoming events.

LGBTQA SECTION

The section filed an amicus brief with the Michigan Supreme Court on *Rouch World LLC v. Department of Civil Rights*. Subsequent-

ly, the Court ruled that the Elliott-Larsen Civil Rights Act prohibits discrimination based on an individual's sexual orientation and gender identity. Following *Rouch* and the U.S. Supreme Court decision in *Dobbs v. Jackson*, the section held the following panels: "After Dobbs: LGBTQ+ Marriages, Parenting, and Reproductive Health Care Access in Michigan" and "The Elliott-Larsen Civil Rights Act and the Future of Queer Rights in Michigan."

PARALEGAL SECTION

The section's 2022 annual meeting will be held at Zehnder's Splash Village in Frankenmuth. Meeting highlights include a Sept. 23 evening networking event either at a brewery or a wine-tasting; the Sept. 24 morning business meeting; and a presentation by Kathy Munoz on learning how to determine your value/skills, asking for raises and benefits increases, and what to do if you do not receive your value. A second speaker will discuss tips and tricks for manipulating PDFs.

REAL PROPERTY LAW SECTION

Register for the Real Property Law Academy II at the J.W. Marriott in Grand Rapids on Sept. 20-21, and at MSU Management Education Center in Troy on May 10-11, 2023. Attendance at Academy I is not required to attend Academy II, but an Academy I program is available for purchase; watch for the link on the section's website. Firm discounts are available. To register or learn more about the Academy II, visit na.eventscloud.com/rplsaii22.

RELIGIOUS LIBERTY SECTION

With great sadness, the section says goodbye to a wonderful person and kind friend, Clarence Dass. He was a truly great man who treated his courtroom opponents with magnanimity and life's hardships with a smile. Clarence, you are missed. Section members, please save the date for this year's annual meeting on Saturday, Sept. 24, at 8:30 a.m. in Detroit. Details will be emailed to you directly.

SENIOR LAWYERS SECTION

New officers and council members were elected in February and meet monthly, with all section members invited to attend the sessions. All standing committees have been repopulated and are working on their plans. The section has partnered with the State Bar of Michigan SOLACE program. We are seeking volunteers to lead renewal of the "Mentor" publication. Finally, the section annual meeting and elections are set for Sept. 30.

SOCIAL SECURITY SECTION

The section seminar is scheduled for Sept. 23 at the Schoolcraft College VisTaTech Center in Livonia. Learn about common challenges and leading practices in SSD law. Speakers will include federal court magistrates. The annual section meeting will also take place at that time. Look for the registration link on the section website.

SOLO AND SMALL FIRM SECTION

At its annual meeting and awards ceremony on June 16, the section revived some prior awards and created new awards. The Pauli Murray New Solo Award was given to five deserving section members in practice for less than three years, eight members were awarded the Section Chair Continuous Education Scholarship, three members were presented with an Outstanding Achievement Award, and two members were awarded the Annual Lifetime Award.

FROM THE PRESIDENT

DANA WARNEZ

Legacies

We all leave one. We may not understand to what extent or how impactful in every instance, but most certainly — in what we do and in what we do not do, in how we communicate and in what we give — we all make an impact on the world around us.

Every woman lawyer today owes her opportunities to women like Jean L. King and my mother, Florence Schoenherr Warnez, both of whom reached for something more than what was expected of them when they decided to pursue a career in the law. Just as every bar leader can recall encouragement he or she received at just the right time, or someone who came before and opened a door, or who piqued an interest in serving, I have been so extremely lucky to have the example set by my sister Kimberly Cahill and those who served with her, including Bruce Courtade, Julie Fershtman, Lori Buiteweg, Ron Keefe, Nancy Diehl, and Judge Cynthia Stephens, all of whom graciously encouraged and informed me in my path of service to the State Bar of Michigan. Likewise, I am so grateful for being in service at the same time as ABA president and past SBM President Reginald M. Turner, whom I thank for being a part of our activities this year.

Every bar leader also understands that nothing can be accomplished alone, in a vacuum. All the effort of the State Bar is undertaken for the benefit of the profession, to enhance access to justice, and on behalf of our 46,000+ members. It takes the effort of many, including our Board of Commissioners, the officers, our committed committees and sections, and the Representative Assembly as well as the collaboration of our fellow stakeholders at the Michigan State Bar Foundation, the Supreme Court, SCAO offices, Attorney Grievance Commission, Attorney Discipline Board, and the like. These efforts are supported by the dedicated work of staff to move the needle, to take on policy positions, and to administer projects that will improve the profession and access to justice.

Looking back on my year as president, I am so proud of things we've accomplished. It's been an extraordinary experience to have met the challenges presented by the retirement of our long-standing and very accomplished Executive Director Janet Welch and the process of hiring a new executive director. It was an honor to hire Peter Cunningham as the sixth executive director to serve the State Bar of Michigan and, more recently, to bring on board Drew Baker, who is the first African American to serve as SBM general counsel.

It's been humbling to see our legal community come on board to support our new program, SOLACE (Support of Lawyers and Legal Personnel All Concern Encouraged), which was implemented to provide support to our members in times of unexpected crisis. The SOLACE Network has grown this year to include 16,000 members who have opted in to help. If you haven't yet, please go to michbar.org/solace to join and be there to help if and when you can.

It also was an honor to see the Supreme Court show confidence in our fiscal management and service on behalf of the profession by approving a license fee increase, which will help the Bar continue to innovate and implement programming for the benefit of our membership, profession, and protection of the public.

I'm also very excited that — in collaboration with Supreme Court Justice Megan K. Cavanaugh and Bree Buchanan, the president of the Institute for Well-Being in the Law — the State Bar has helped pull together professionals throughout the profession into the Michigan Well-Being in Law Task Force. The task force, which was announced in May, is working to provide recommendations on ways to improve the well-being of lawyers, law students, judges, and others working in the legal profession — crucial work needed to turn around disturbing trends.

As my year as president draws to a close and in this, my final President's Page, I extend my sincere and extensive thanks to all those people who have contributed to make this year a meaningful and productive one, as reflected upon above. I give special thanks to consultant Elizabeth Derrico and all those who served on the Executive Director Search Committee. Also, thanks to all the commissioners who have served this year and the officers who have pulled together when needed. A very special thanks to incoming President James W. Heath for his professional insights, hard work, personal friendship, and support, especially toward the end of the year when some family matters have drawn me away from some leadership responsibilities.

Furthermore, I also owe a great deal of gratitude to the entire staff of the SBM for their hard work, especially to executive directors Janet Welch and Peter Cunningham as well as Margaret Bossenbery, Molly Ranns, Robert Mathis, Marjory Raymer, Gregory Conyers, Kari Thrush, Anne Vrooman, and Carrie Sharlow — all of whom have all put special effort and care into helping me during past years' and this year's work.

Being a part of the SBM community as the 87th president has been a privilege and a highlight of my life. Thank you, thank you, thank you everyone!

I acknowledge that bar service is a commitment that often means sacrificing time with our clients, our local communities, and our families. To that extent, I want to say thank you to our clients for their patience; my mother, Florence Schoenherr Warnez; my sister, Pamela Cahill; my friends at the Macomb Bar including Rick Troy, Dawn Fraylick, Judge Tracey Yokich, Lori Finazzo; and the Divas who were there to celebrate and support me throughout the past year. Of course, there aren't enough words available, in this language or others, to say thanks to my partner, Meri Dembrow, without whose love, positivity, and shared strength I would not have been able to do all that I did this year.

So, lastly, I leave you with a few suggestions. I encourage you, gentle reader, to get more involved with the State Bar of Michigan and, when doing so, consider and revisit often the sage advice of Judge Victoria Roberts as outlined in Thomas Cranmer's President's Page published in October 2005. This is the best compilation of advice I have ever read about what it means to be a leader in service to the Bar. My favorite components of this advice are to subordinate personal ambition; be introspective; seek wisdom, knowledge, justice, courage, and integrity; maintain a sense of humor; don't resist the help of others; know how to listen; be tolerant; and recognize the contributions of others. These precious words of advice are wonderful and a testament to how special Judge Roberts is to our Bar community and the profession. This article echoes some of the best advice my mother ever gave me, as a "KEY" to success: seek Knowledge, be Enthusiastic, and be Yourself. While I honor everyone I have mentioned, dare I also honor my own experience to remind you: Please always take good care of yourself and your well-being.

Wishing you all every happiness and success; thank you for a year that I will always treasure.

2000-2010

As part of our continuing celebration of the Michigan Bar Journal's centennial featuring a decade-by-decade look back at the past 100 years, the focus this month turns to the first decade of the new millennium. Trying to wrap a tidy bow around the events that occurred between 2000 and 2009 is an exercise in futility.

The lows — the Sept. 11, 2001, terrorist attacks on New York and Washington D.C.; Hurricane Katrina's destruction of New Orleans and the Gulf Coast in 2005; and a crippling economic crisis toward the end of the decade that devastated the finances of corporations and consumers alike — were abysmal.

On the other hand, the highs were pretty remarkable. Not everyone voted for Democrat Barack Obama in the 2008 presidential election, but as the first Black to be elected to the country's highest office, the visuals surrounding his election night victory speech in Chicago's Grant Park and his inauguration in the nation's capital the following January are hard to forget.

Six years prior to Obama's win, Michigan made history when voters chose Democrat Jennifer Granholm as governor, the first female to hold the seat. In the state's five gubernatorial elections starting with 2002, women have been victorious in three of them and a female is guaranteed to win the seat again in 2022.

Perhaps the biggest catalyst of change in the decade — we'll let you decide whether it was a positive or negative — was the rapid growth in personal technology. The mobile flip phones we all had at the start of the decade were obsolete a few years later after Apple introduced the iPhone, a revolutionary product that coincided with a massive upheaval in how we communicated with one another and the world with the launch of social media platforms like Facebook, Instagram, and Twitter.

Join us next month when we conclude our celebration of the Michigan Bar Journal's 100th anniversary.

DECEMBER 12, 2000

More than a month after the presidential election, The U.S. Supreme Court ruled against a manual recount of ballots in a handful of Florida counties, contending it would violate the Constitution's equal protection and due process guarantees, cementing George W. Bush's election.

JULY 2001

Detroit's tricentennial celebration peaked with a week of events that drew crowds to the city. Highlights included the Sounds of Detroit music festival headlined by Stevie Wonder and a parade of 15 tall ships on the Detroit River.

SEPTEMBER 11, 2001

Al-Qaeda terrorists hijacked four planes, crashing two into the twin towers of the World Trade Center in New York City and the third into the Pentagon in Washington, D.C. The fourth plane was downed in rural Pennsylvania after passengers tried to reclaim it from the hijackers. Nearly 3,000 people died in the attacks.

JULY 1, 2002

The International Criminal Court, an intergovernmental organization and tribunal seated in The Hague, Netherlands, was established. It is the first and only permanent international court with jurisdiction to prosecute individuals for genocide, crimes against humanity, war crimes, and the crime of aggression.

NOVEMBER 5, 2002

Attorney General Jennifer M. Granholm defeated challenger Dick Posthumus to become the first woman elected governor of the state of Michigan.

NOVEMBER 25, 2002

President Bush signed legislation creating the Department of Homeland Security.

FEBRUARY 4, 2004

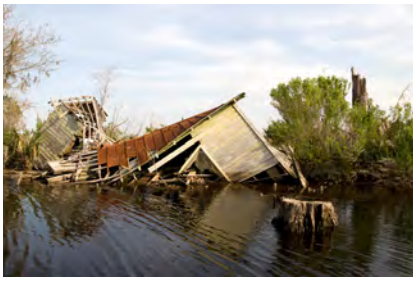
Facebook was founded by five Harvard students — Mark Zuckerberg, Andrew McCollum, Eduardo Saverin, Dustin Moskovitz, and Chris Hughes.

NOVEMBER 19, 2004

Late in the Indiana Pacers-Detroit Pistons NBA game in Auburn Hills, a fan threw a drink at the Pacers' Ron Artest. Artest charged up to the stands and grabbed another fan he mistakenly believed was the culprit, sparking a brawl. Five players were charged with assault and sentenced to a year of probation and community service, and five fans were banned from attending Pistons home games for life.

JULY-SEPTEMBER 2005

Big changes for the U.S. Supreme Court: on July 1, Justice Sandra Day O'Connor announced her retirement. On Sept. 3, Chief Justice William H. Rehnquist died after a battle with thyroid cancer. On Sept. 29, John G. Roberts assumed the role of chief justice.



AUGUST 29-31, 2005

Hurricane Katrina struck Louisiana. One of the deadliest natural disasters in U.S. history, the Category 5 storm killed more than 1,500 people in seven states and submerged 80% of the city of New Orleans.

DECEMBER 26, 2006

The nation's 38th president, Gerald R. Ford, a Grand Rapids native and attorney, died at the age of 93 in Rancho Mirage, California.

JUNE 2007

Apple revolutionized the mobile phone industry with the release of the first iPhone.

2008

A credit crisis that began in the late summer and fall of the previous year triggered a severe economic downturn.

NOVEMBER 4, 2008

Democrat Barack Obama was elected over Republican challenger John McCain to become the first Black U.S. president.

JUNE 1, 2009

General Motors declared bankruptcy. The U.S. government provided bridge financing for GM and, in return, the U.S. and Canadian governments together gained control of 70% of the company. The GM bankruptcy came just a few weeks after a similar announcement by Chrysler.

STATE BAR OF MICHIGAN

2022 ELECTION RESULTS

Four newly elected attorneys will join the Board of Commissioners and three incumbents also won reelection in the 2022 State Bar of Michigan elections.

The Board of Commissioners provides oversight to the State Bar on finance, public policy, professional standards, and member services. Elected commissioners will serve three-year terms.

The newly elected commissioners are:

Thomas P. Murray Jr., a trial attorney with the Sam Bernstein Law Firm, was elected in an uncontested race to serve District C representing Muskegon, Kent, Ottawa, Isabella, Newaygo, Oceana, Mecosta, Osceola, Clare, and Gladwin counties. Murray is on the board of trustees for the Grand Rapids Bar Association and the Justice Foundation of West Michigan.

Nicholas M. Ohanesian, an administrative law judge, also was elected in an uncontested race to serve District C. He currently sits on the Board of Commissioners as chair of the Representative Assembly. Ohanesian serves in the Social Security Administration Office of Hearings Operations.

Matthew B. Van Dyk of Miller Johnson was elected in an uncontested race to serve District F representing Hillsdale, Berrien, Barry, Kalamazoo, Branch, Van Buren, Calhoun, Cass, Saint Joseph, and Allegan counties. Van Dyk is chair of Miller Johnson's real estate practice.

Gerard V. Mantese of Mantese Honigman PC was elected in a contested race to serve District I representing Oakland County. Mantese has been on the Access to Justice Campaign's Metro Detroit fundraising committee since 2019.

Reelected commissioners are:

Suzanne C. Larsen, Marquette city attorney, who was reelected in an uncontested race to serve District A representing Luce, Mackinac, Schoolcraft, Alger, Houghton, Baraga, Keweenaw, Grand Traverse, Leelanau, Antrim, Manistee, Benzie, Arenac, Iosco, Alcona, Oscoda, Marquette, Alpena, Montmorency, Missaukee, Wexford, Gogebic, Ontonagon, Charlevoix, Roscommon, Ogemaw, Dickinson, Iron, Menominee, Otsego, Crawford, Kalkaska, Delta, Chippewa, Lake, Mason, Cheboygan, Presque Isle, and Emmet counties.

Erika L. Bryant of Butler Davis, who was reelected in a contested race to serve District H representing Wayne, Monroe, and Lenawee counties.

James W. Low of The Dollar Law Firm PLLC, who was reelected in a contested race to serve District I representing Oakland County.

Also elected were representatives to the Judicial Tenure Commission, Representative Assembly, and the Young Lawyers Section Executive Council.

JUDICIAL TENURE COMMISSION

The Judicial Tenure Commission is a constitutionally created body that promotes the integrity of the judicial process and preserves public confidence in the courts.

Thomas J. Ryan won a contested election to serve a three-year term on the Judicial Tenure Commission that runs from Jan. 1, 2023, to Dec. 31, 2025.

SBM REPRESENTATIVE ASSEMBLY

The 150-member Representative Assembly was created in 1972 and serves as the final policy-making body for the State Bar of Michigan.

Representative Assembly election winners are:

2ND CIRCUIT (BERRIEN COUNTY)
Blair M. Johnson, St. Joseph

3RD CIRCUIT (WAYNE COUNTY)
Ponce D. Clay, Detroit
Hon. Kristina Robinson Garrett, Detroit
Lisa Whitney Timmons, Detroit
Rita O. White, Canton

4TH CIRCUIT (JACKSON COUNTY)
Brad A. Brelinski, Jackson

6TH CIRCUIT (OAKLAND COUNTY)
Fatima M. Bolyea, Troy
James P. Brennan, Hazel Park
Alec M. D'Annunzio, Pontiac
Karen R. Geibel, Troy
Edward L. Haroutunian, Bingham Farms
Emily A. Karr, New Hudson
Joshua A. Lerner, Royal Oak
Michael E. Sawicky, Farmington Hills

7TH CIRCUIT (GENESEE COUNTY)
Marc D. Morse, Grand Blanc

13TH CIRCUIT (ANTRIM, GRAND TRAVERSE, AND LEELANAU COUNTIES)
Agnieszka Jury, Traverse City

17TH CIRCUIT (KENT COUNTY)
Brent T. Geers, Grand Rapids
Philip L. Strom, Grand Rapids

19TH CIRCUIT (BENZIE AND MANISTEE COUNTIES)
Lesya N. Dull, Manistee

20TH CIRCUIT (OTTAWA COUNTY)
Christopher M. Wirth, Zeeland

21ST CIRCUIT (ISABELLA COUNTY)
Becky J. Bolles, Mt. Pleasant

22ND CIRCUIT (WASHTENAW COUNTY)
Elizabeth C. Jolliffe, Ann Arbor
Marla A. Linderman Richelew, Ann Arbor

24TH CIRCUIT (SANILAC COUNTY)
Matthew C. Lozen, Sandusky

30TH CIRCUIT (INGHAM COUNTY)
Nicholas E. Gobbo, Lansing

31ST CIRCUIT (ST. CLAIR COUNTY)
Richard W. Schaaf, Port Huron

37TH CIRCUIT (CALHOUN COUNTY)
Angela Easterday, Battle Creek

39TH CIRCUIT (LENAWEE COUNTY)
Katarina L. DuMont, Adrian

40TH CIRCUIT (LAPEER COUNTY)
Bernard A. Jocuns, Lapeer

41ST CIRCUIT (DICKINSON, IRON, AND MENOMINEE COUNTIES)
Hon. Christopher S. Ninomiya, Iron Mountain

44TH CIRCUIT (LIVINGSTON COUNTY)
David T. Bittner, Howell

46TH CIRCUIT (CRAWFORD, KALKASKA, AND OTSEGO COUNTIES)
Courtney E. Cadotte, Gaylord

50TH CIRCUIT (CHIPPEWA COUNTY)
Jason N. Rozencweig, Sault Ste. Marie

51ST CIRCUIT (LAKE AND MASON COUNTIES)
Tracie L. McCarn-Dinehart, Ludington

56TH CIRCUIT (EATON COUNTY)
Timothy H. Havis, Charlotte
Adam H. Strong, Charlotte

SBM YOUNG LAWYERS SECTION EXECUTIVE COUNCIL

The Young Lawyers Executive Council governs the members of the Young Lawyers Section, one of the State Bar's largest sections. The section provides education, information, and analysis about issues of concern through meetings, seminars, public service programs, and newsletters.

Elected to the YLS Executive Council are:

Fawzeih H. Daher of Southfield, who won an uncontested election in District 2 representing Oakland County for a two-year term expiring in 2024.

Miriam Saffo of Ann Arbor, who won an uncontested election in District 3 representing all Michigan counties except for Wayne, Oakland, and Macomb, for a two-year term expiring in 2024.

Alexander J. Thibodeau of Grand Rapids, who also won an uncontested election in District 3 for a two-year term expiring in 2024.

organize the said village pursuant to the provisions of section two of this act, by the election of the officers provided for in said section, and in all other respects as provided by said act.

This act is ordered to take immediate effect.

Approved February 14, 1857.

[No. 109.]

AN ACT to provide for feeing an attorney when appointed by the Court.

SECTION 1. *The People of the State of Michigan enact*, That an attorney appointed by a court to defend a person indicted for any offence on account of such person being unable to procure counsel, shall be entitled to receive from the county treasury, on the certificate of the presiding judge that such services have been duly rendered, one of the following fees: For defending in case of felony, twenty dollars; in case of other felonies, ten dollars; in case of misdemeanors, five dollars.

Sec. 2. An attorney shall not, in such case, be compelled to follow a case into another county or into the supreme court, and if he does so may recover an enlarged compensation, to be graduated on a scale corresponding to the prices above allowed.

Sec. 3. Only one attorney in any one case shall receive the compensation above contemplated, nor shall he be entitled to this compensation until he files his affidavit in the office of the county clerk, in which such trial or proceedings may be had, that he has not, directly or indirectly, received any compensation for such services from any other source.

Approved February 14, 1857.

[No. 110.]

Photo by Sarah Brown, State Bar of Michigan

With trailblazing 1857 law, Michigan guaranteed all defendants' right to legal counsel

BY PATRICK HAYES

The right to legal counsel in criminal defense cases is embedded within the very fabric of our country's foundation. Along with Americans' right to freedom of religion and speech, the right to representation is fundamental and clearly outlined in the Bill of Rights, the final clause in the Sixth Amendment: "and to have assistance of counsel for his defense."[1]

The sentiment is similarly outlined in the Michigan Constitution passed in 1835 and since amended: "In every criminal prosecution, the accused shall have the right to . . . have the assistance of counsel for his or her defense."[2]

While this idea is considered a fundamental American right, the onus of making it a reality fell on the states. With the passing of Public Act 109 of 1857, Michigan became one of the first states in the country to codify the right to legal counsel (and even specified compensation for such counsel) for defendants.[3]

This landmark law predated federal-level policy and court discussions by several decades — and its significance is being recognized this month as the State Bar of Michigan's 43rd Michigan Legal Milestone.

The bronze plaque highlighting the historic development in Michigan's indigent defense system will be unveiled Wednesday, Sept. 21, in Allegan, the hometown of Public Act 109's sponsor, Sen. Gilbert Moyers. Michigan attorneys and the public are invited to attend. For more information, visit michbar.org/milestones.

A NATIONAL PERSPECTIVE

While it now may seem unfathomable to consider a time without the codified right to counsel, Public Act 109 of 1857 was trailblazing because the Sixth Amendment, at least initially, applied only to federal prosecutions.

It took another 75 years for the U.S. Supreme Court to rule in support of defendants' right to counsel in *Powell v. Alabama* — the so-called "Scottsboro Boys" case in which nine young Black men were sentenced to death for the alleged rape of two white women. The decision, however, focused more squarely on the 14th Amendment and the right to due process and, more narrowly, on the right to counsel specifically in capital cases.[4]

However, the 1932 *Powell* decision was essentially reversed in 1942 in *Betts v. Brady*. In *Betts*, the Supreme Court ruled that the right to due process does not specifically include the rights found in the Sixth Amendment and state governments were not obligated to provide counsel — even in death penalty cases.[5]

By most standards, the right to an attorney was not fully settled at the federal level until 1963, when a unanimous Supreme Court ruled in *Gideon v. Wainwright* that the Sixth Amendment applied to state prosecutions through the incorporation doctrine and specifically required states to appoint attorneys for criminal defendants who cannot afford to do so.[6] The right to an attorney was further buoyed the following year when in *Escobedo v. Illinois*, defendants were given right to counsel from the moment they are taken into custody.[7]

The fact that Michigan created and followed that standard more than a century prior to *Gideon* shouldn't come as a surprise considering the influence of attorneys in state government at the time.

Sen. Moyers introduced the bill to provide payments for court-appointed attorneys in January 1857, shortly after taking office. Prior to being elected to the state Senate, Moyers served as prosecuting attorney for Allegan County.[8]

After the bill's introduction, it was greeted by more friendly attorneys turned politicians: Sen. George Jerome of Detroit served as chair of the Senate Judiciary Committee[9] and Rep. Henry A. Shaw (who would go on to be elected speaker of the House) chaired the House Judiciary Committee.[10]

Exactly one month after its introduction, Governor Kinsley S. Bingham, whose early forays into public service included the distinction

A STEP TOWARD A BETTER SYSTEM OF JUSTICE

The U.S. Bill of Rights guarantees the right to legal counsel for anyone accused of a crime. Attorneys have an ethical obligation to assist in meeting the legal needs of the poor and do so in many ways. While they have always worked to uphold the 6th Amendment's right to counsel guarantee, they themselves had no guarantee of being paid anything at all for their work for poor defendants.

Allegan County Prosecutor Gilbert Moyers recognized that a constitutional right that depended entirely on lawyers' free service was not sustainable or fair. When he was elected to the Michigan Senate in 1856, Moyers took a critical step toward improving Michigan's criminal justice system by ensuring that people accused of crimes were represented by compensated attorneys. He introduced a bill to provide court-appointed attorneys $25 for murder cases, $10 for other felonies, and $5 for misdemeanor cases. A lawyer "compelled to follow a case into another county of into the Supreme Court" could "recover an enlarged compensation." The bill became Public Act 109 of 1857 just a month after being introduced.

Efforts to promote equal and meaningful access to justice in Michigan continue to this day, and lawyers continue to contribute to the goal of access to justice for all.

Placed by the State Bar of Michigan, and the Allegan County Bar Association 2022

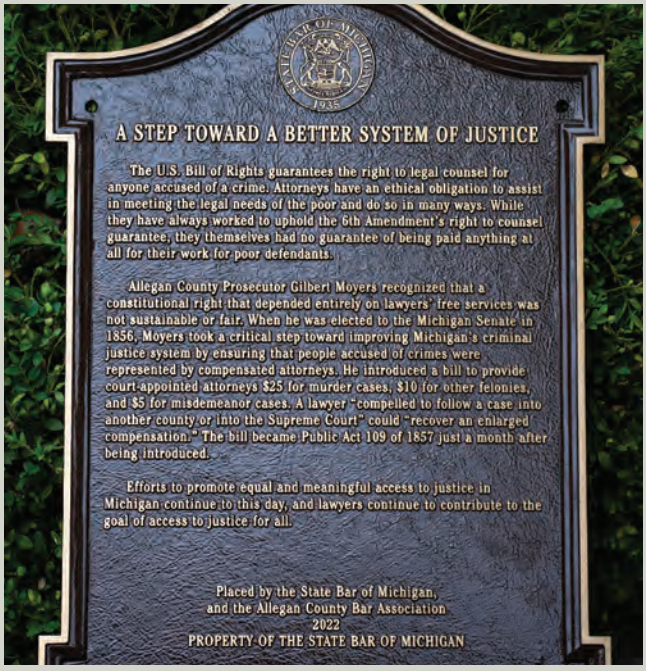


Photo by Sarah Brown, State Bar of Michigan

of serving as Livingston County's first probate judge,[11] signed the bill into law on Feb. 14, 1857, guaranteeing access to counsel for Michigan's indigent defendants while also guaranteeing payment to the attorneys taking those assignments — $25 for murder cases, $10 for other felony cases, and $5 for misdemeanor cases.[12]

REFORM OF 2013

The 1857 law, while significant, also bore an inherent weakness:

> "The People of the State of Michigan enact that an attorney appointed by a court to defend a person indicted for any offence on account of such person being unable to procure counsel, shall be entitled to receive *from the county treasury*, on the certificate of the presiding judge that such services have been duly rendered …" (emphasis added)

Gideon v. Wainwright established that it is the state's obligation to provide for indigent defense services,[13] but since PA 109 of 1857 was passed, that financial burden was placed solely on county governments.

"There were several places where it was inadequately funded and lots of places where it was very poorly funded," said Hon. James Fisher, a former chief judge of Barry County Trial Court and a former prosecuting attorney who helped lead Michigan reform efforts. "Funding has always been the crux of the problem."

The push to reform the state's indigent defense structure stretches back to at least the mid-1970s, when state Supreme Court Chief Justice Thomas Kavanagh appointed a Defense Services Committee of the State Bar of Michigan to review the entire trial and appellate procedure for legal representation of indigent defendants.[14]

More directly, the "Eleven Principles of a Public Defense Delivery System" — adopted by the State Bar Representative Assembly in 2002 — specifically called for state funding to ensure access to qualified representation.[15]

In 2008, a report by the National Legal Aid and Defender Association (NLADA) noted several deficiencies in Michigan's public defender system. Most notably, funding was left up to counties and the lack of resources meant that — despite a constitutional right to competent legal representation — Michigan could not guarantee such counsel would be available.

In February 2009, a group called the Michigan Campaign for Justice issued "Michigan's Public Defense Report Card," which gave the state failing grades for both funding and structural integrity.[16] The organization was comprised of a coalition of Michigan judges and attorneys, civil rights organizations, and criminal justice advocates.[17]

"I was a judge at the time, and most judges were not on board," Fisher said. "There was concern that if it was run with no local input, municipalities still wouldn't have lawyers present when they needed them."[18]

In January 2011, the State Bar of Michigan Judicial Crossroads Task Force, comprised of 29 leaders from the bar, business, civic, and political communities, issued its report.[19] The task force's Access to Justice Committee did not mince words in its findings:

> "Michigan has tolerated an indigent defense system so lacking in resources that assigned counsel can only occasionally provide the effective assistance of counsel guaranteed by the U.S. and Michigan constitutions, causing large downstream costs and the risk of costly litigation."[20]

A few months later, Gov. Rick Snyder appointed a 14-member Indigent Defense Advisory Commission to recommend changes to the system and named Fisher as the chair of the bipartisan group.[21] The commission's work resulted in House Bill 4529 and Senate Bill 301, which were signed into law on July 1, 2013, establishing the first statewide standards for indigent defense in Michigan and creating a foundation for fair and adequate funding statewide.[22]

Fisher would become the first chairman of the Michigan Indigent Defense Commission in 2013 and continues to serve on the commission today. In 2019, the commission received its first appropriation — $86.7 million — to distribute to local court systems to help them comply with minimum standards for appointment of defense counsel.[23]

Today, the commission has a full-time staff including an executive director and regional managers located across the state.[24] It distributed nearly $130 million for indigent defense in the 2021 fiscal year.[25]

The funds support a variety of resources. In addition to ensuring there are always attorneys present at arraignments for those who request one, it has also allowed counties to offer investigative services and expert witness services to attorneys while providing social workers for people in the legal system with underlying problems, Fisher said.

"It has been a remarkable success," Fisher said. "We have lots of openings for new attorneys, we have public defender offices that have opened across Michigan. It has been quite a sea change."

MICHIGAN LEGAL MILESTONE

To celebrate the selection of PA 109 of 1857 and the roots of Michigan's indigent defense system, the State Bar of Michigan will unveil a bronze plaque recognizing the law's importance at an event at 5:30 p.m. on Wednesday, Sept. 21, at The Silo, located on 1071 32nd Street in Allegan. The event will feature:

- Chad Catalino, Allegan/Van Buren Public Defender Office.
- Peter Cunningham, State Bar of Michigan executive director.
- Hon. James Fisher (ret.), current MIDC commissioner and former MIDC chair.
- Hon. Jacquelyn McClinton, 36th District Court judge.
- Susan Prentice-Sao, MIDC Western Michigan regional manager.

Michigan attorneys and the public are invited to attend the event. Registration is required and limited to the first 100 registrants.

For more information, visit michbar.org/milestones.

Patrick Hayes is an author, editor, and researcher with more than 15 years of experience. His work has appeared in publications including The New York Times, ESPN.com, Lifehacker, Sierra Magazine, SB Nation, the Detroit Free Press, and more. Most recently, he edited "All In: The Kelvin Torbert Story." He also serves as an adjunct professor, who has taken his courses into prisons to help incarcerated individuals earn college degrees.

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SBM STATE BAR OF MICHIGAN

PUBLIC POLICY REPORT

IN THE HALL OF JUSTICE

Amendment of Rule 1.109 of the Michigan Court Rules (ADM File No. 2002-37) – Court records defined; document defined; filing standards; signatures; electronic filing and service; access (See *Michigan Bar Journal* June 2022, p 56).

STATUS: Comment period expired 8/1/22; Public hearing to be scheduled.

POSITION: Support.

Amendments of Rules 1.109 and 8.119 of the Michigan Court Rules (ADM File No. 2002-37/2017-28) – Court records defined; document defined; filing standards; signatures; electronic filing and service; access; court records and reports; duties of clerks (See *Michigan Bar Journal* July/August 2022, p 70).

STATUS: Comment period expires 9/1/22; Public hearing to be scheduled.

POSITION: Support.

Proposed Rescission of Administrative Order No. 1998-1 and Proposed Amendment of Rule 2.227 of the Michigan Court Rules (ADM File No. 2021-17) – Reassignment of circuit court actions to district judges; transfer of actions on finding of lack of jurisdiction (See *Michigan Bar Journal* June 2022, p 56).

STATUS: Comment period expired 8/1/22; Public hearing to be scheduled.

POSITION: Support and recommend that the Court consider the potential conflict in the rules regarding jury demands in transferred cases.

Proposed Amendment of Rule 3.101 of the Michigan Court Rules (ADM File No. 2022-06) – Garnishment after judgment (See *Michigan Bar Journal* July/August 2022, p 73).

STATUS: Comment period expires 9/1/22; Public hearing to be scheduled.

POSITION: Support.

Proposed Amendment of Rules 3.613 of the Michigan Court Rules (ADM File No. 2021-21) – Change of name (See *Michigan Bar Journal* June 2022, p 58).

STATUS: Comment period expired 8/1/22; Public hearing to be scheduled.

POSITION: Support the amendment to Rule 3.613 and recommend that the Court make the determination of good cause required by the proposed amendment presumptive for persons whose name change is sought for affirmation of gender identity, and for victims of human trafficking and domestic violence. Also recommend that language be added to the rule to provide for court-approved alternative service for the notice of a hearing to noncustodial parents, rather than requiring publication of such notice in a newspaper, and to further recommend that such notice not include a minor child's name.

Proposed Amendment of Rule 3.903 of the Michigan Court Rules (ADM File No. 2020-33) – Definitions (See *Michigan Bar Journal* June 2022, p 59).

STATUS: Comment period expired 8/1/22; Public hearing to be scheduled.

POSITION: Support.

Proposed Amendment of Rule 3.943 of the Michigan Court Rules (ADM File No. 2021-18) – Dispositional hearing (See *Michigan Bar Journal* June 2022, p 60).

STATUS: Comment period expired 8/1/22; Public hearing to be scheduled.

POSITION: Support.

Proposed Amendment of Rule 7.305 of the Michigan Court Rules (ADM File No. 2021-16) – Application for leave to appeal (See *Michigan Bar Journal* June 2022, p 60).

STATUS: Comment period expired 8/1/22; Public hearing to be scheduled.

POSITION: Support the clarification of Rule 7.305 but recommend that the timeframe for filing an application for leave to appeal be made consistent for all civil appeals, including appeals from orders terminating parental rights, at 42 days.

Proposed Amendment of Rule 8.119 of the Michigan Court Rules (ADM File No. 2021-13) – Court records and reports; duties of clerks (See *Michigan Bar Journal* June 2022, p 61).

STATUS: Comment period expired 8/1/22; Public hearing to be scheduled.

POSITION: Support.

MICHIGAN LAWYERS IN HISTORY

Petronilla "Sister Ann" Joachim

BY CARRIE SHARLOW

Normally, an individual attorney's admission to practice before the United States Supreme Court does not warrant front-page treatment from newspapers across the country.[1] However, this lawyer, teacher, and occasional airplane pilot was also a practicing nun wearing her full religious habit. No one could recall a nun appearing before the high court in this capacity before. But Petronilla M. Joachim had made a practice of doing the unexpected, and her admission to the Court was just one in a long line of her achievements.

Petronilla Joachim was born in Cologne, Germany, on Oct. 15, 1901, to August and Johanna Joachim. Like many families around the turn of the century, her father journeyed to the New World in search of a better life and the rest of the family — his wife, Johanna and children John, Erna, Petronilla, and Walter — followed later, although not for a couple years.[2] The family settled in Detroit, where August worked as a machinist in various industries.[3]

Perhaps if August had not died unexpectedly at the relatively young age of 49, Petronilla might have realized her dream of entering a convent when she was a teenager.[4] But the family finances took a hit with August's death, and everyone at home had to pitch in. Petronilla certainly could have dropped out of high school at 13 and worked for the rest of her life "clerking in a drugstore at $4.50 a week,"[5] but she didn't. Instead, she continued her education through night school,[6] took a course in stenography, and eventually found work in a law firm.[7]

That job was a defining moment in her life. Joachim realized that she "was on the wrong side of the desk."[8] Whether her original plans involved such an extensive education, that realization led her to earn a law degree from the Detroit College of Law and a master's degree from the University of Detroit by 1924.[9]

Never a shrinking violet, Joachim became involved in a myriad of extracurricular activities. With women just having gained the right to vote, she ventured into the political arena, assisting her former law professor in his campaign to be elected to the recorder's court.[10] She networked by joining a number of clubs and served as secretary of the Women Lawyers Association of Michigan.[11] And always a bit of a tomboy, she won a state title in tennis and took flying lessons, after which she briefly worked as a stunt flyer.[12]

Photo courtesy of Siena Heights University Archives

In 1928, Joachim revisited her youthful dream of entering the convent. That made headlines across the country; even if people knew of her earlier wish, they were still flabbergasted: "Miss Joachim Succeeds in Profession in Which Few Women Win Out, That of Law."[13] But Joachim "just felt like [she] had accomplished all [she] desired" in the legal profession and decided she "could better serve God in the field of religious education."[14] Thereafter, she was known as Sister Ann Joachim.

If anyone expected Sister Ann to stay at the Dominican Sisters convent at Adrian and be a typical nun, they weren't very familiar with her track record. She certainly saw no reason not to continue her education — by 1940, not only had she been admitted to the Supreme Court to practice, but she added to her previous degrees by earning a bachelor's degree from Siena Heights College, a master's degree from Loyola University in Chicago, and a doctorate from the International Catholic University in Freiburg, Germany.[15] With five degrees in hand, it made complete sense that Sister Ann taught at Siena Heights College — everything from "political science, economics, parliamentary law and international relations classes"[16] — and even served as head of the school's social studies department.[17] She also carved out time to teach her students tennis.

And while she "had accomplished all she desired in the legal profession," there was no reason to let a good education go to waste. Sister Ann served as counsel for the Dominican Sisters and helped her fellow nuns and their families with legal issues.[18] Perhaps the best part was that she didn't need to worry about charging fees.

With either a limitless amount of energy or a severe lack of sleep, Sister Ann also wrote and published articles on everything from the "legal aspects of associations" to civil rights of minorities to a comparison of the constitutions of the United States and Switzerland.[19] She was a regular on the lecture circuit, traveling across the country to speak at religious meetings, medical conferences, and anything to do with women's issues.

And while she wasn't flying planes anymore, Sister Ann rode in them around the world, including a visit to the Soviet Union at the height of the Cold War. As with her entry to the convent and her admission to the Supreme Court, this, too, made news across the country as Sister Ann became "the first nun, in habit, to tour the U.S.S.R. since the 1917 revolution."[20] She and her travel companion were even provided with a "special guide" because they "asked so many questions and wanted to stop for so many pictures."[21] The religious habit came in handy for hiding undeveloped film and notepads with Sister Ann's uncensored observations of the country. In retrospect, it's amazing she wasn't forced to leave the Soviet Union mid-trip — she "threatened to make 'an international scene' if the authorities tried it," and they must have taken her seriously.[22]

By the late 1960s, Sister Ann had a résumé that few could match, and it was surely time for her to retire after more than 40 years in the convent and nearly 50 years as a member of the bar. Instead, she decided to run for a seat on the Adrian City Commission and won, placing first out of eight candidates.[23] While she wasn't the first woman on the commission, she was the first nun and, arguably, the biggest celebrity in town.[24]

When Sister Ann Joachim died on Jan. 8, 1981, it wasn't entirely unexpected, but it, too, made the news across the country as newspapers struggled to summarize the life of this "thoroughly extraordinary person."[25] During her 79 years, she'd done everything from flying airplanes to earning five academic degrees to traveling across the world to serving in political office. But every obituary, however short or long, seemed to highlight her as the "first nun ever to be admitted to the bar of the U.S. Supreme Court."

Carrie Sharlow is an administrative assistant at the State Bar of Michigan.

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State Bar of Michigan

2022 A LAWYER HELPS PRO BONO HONOR ROLL

The State Bar of Michigan is pleased to publish the 2022 A Lawyer Helps Pro Bono Honor Roll. The honor roll recognizes individual attorneys, law firms, and corporations that support access-to-justice efforts by providing pro bono legal services to low-income individuals and families throughout the state.

Law firms and corporations eligible for recognition submitted an honor roll application and either achieved a per-attorney average of 30, 50, or 100+ hours or provided at least 100 cumulative hours of pro bono services in 2021.

Individual attorneys who submitted an honor roll application and provided 30, 50, or 100+ hours of qualifying pro bono legal services in 2021 were also eligible for recognition.

For this year's honor roll, more than 1,100 Michigan-licensed attorneys submitted upwards of 39,000 pro bono service hours to the State Bar. While most eligible attorneys wanted to be publicly recognized for their qualifying pro bono service, many attorneys did not wish to be included on the published version of the honor roll and submitted their pro bono service hours for reporting purposes only.

Individual and firm applications for the 2023 Pro Bono Honor Roll recognizing eligible pro bono service hours from the 2022 calendar year will be available in early January. Visit www.alawyerhelps.org for more information about the honor roll and to find pro bono opportunities in your area.

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Sabrina Balgamwalla
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Barbara Bowman
Erika Lorraine Bryant
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Adam Brody
Ka'Nea K. Brooks
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Chartier & Nyamfukudza PLC
Nichols, Sacks, Slank, Sendelbach, Buiteweg & Solomon PC

TIER 2 (30–49 Hours)

ArentFox Schiff LLP
Bodman PLC
Dykema
Foley & Lardner LLP
Kitchen Sharkey PLLC
Miller Canfield

RECOGNITION BASED ON FIRM'S TOTAL HOURS

TIER 1 (4,000–5,999 Hours)

Bodman PLC
Miller Canfield

TIER 2 (2,000–3,999 Hours)

Dykema

TIER 3 (100–1,999 Hours)

ArentFox Schiff LLP
Butzel Long
Chartier & Nyamfukudza PLC
Foley & Lardner LLP
Kitchen Sharkey PLLC
Miller Johnson
The Mike Morse Law Firm
Nichols, Sacks, Slank, Sendelbach, Buiteweg & Solomon PC
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STATE BAR OF MICHIGAN

INAUGURAL & AWARDS LUNCHEON

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Honors from both 2020 & 2022 were awarded at this year's luncheon.

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Timothy Skubick (2020) & Grace French (2022)

FRIDAY, SEPTEMBER 16, 2022 • 12:00 P.M.

The Westin Book Cadillac • Detroit, MI

FOR MORE INFORMATION, VISIT MICHBAR.ORG/AWARDS

IN MEMORIAM

DALE S. ADAMS, P10037, of Plymouth, died April 12, 2022. He was born in 1938, graduated from Wayne State University Law School, and was admitted to the Bar in 1969.

PATRICK J. BOOG, P35445, of East Lansing, died June 4, 2022. He was born in 1950, graduated from Thomas M. Cooley Law School, and was admitted to the Bar in 1983.

ROBERT J. BORROWDALE, P11024, of Battle Creek, died Dec. 24, 2021. He was born in 1921, graduated from Wayne State University Law School, and was admitted to the Bar in 1968.

STEPHEN L. BURLINGAME, P27136, of Lansing, died July 2, 2022. He was born in 1950, graduated from University of Michigan Law School, and was admitted to the Bar in 1977.

MARIO CHIESA, P11831, of Dearborn, died June 30, 2022. He was born in 1946, graduated from Detroit College of Law, and was admitted to the Bar in 1973.

GERALD P. DUNDAS, P13014, of The Villages, Fla., died March 30, 2022. He was born in 1934, graduated from Detroit College of Law, and was admitted to the Bar in 1963.

MARY C. EDGAR, P33029, of East Lansing, died April 20, 2022. She was born in 1933, graduated from Thomas M. Cooley Law School, and was admitted to the Bar in 1981.

HON. PRENTIS EDWARDS, P13114, of Detroit, died April 2, 2022. He was born in 1937, graduated from Wayne State University Law School, and was admitted to the Bar in 1966.

HON. ROBERT L. EVANS, P13247, of Scottsdale, Ariz., died June 17, 2022. He was born in 1931, graduated from University of Michigan Law School, and was admitted to the Bar in 1956.

DAVID M. FOSTER, P30041, of Farmington Hills, died June 18, 2022. He was born in 1953, graduated from University of Detroit School of Law, and was admitted to the Bar in 1979.

JOHN H. HOLMES JR., P25446, of Bloomfield Hills, died July 9, 2022. He was born in 1946 and was admitted to the Bar in 1975.

TERRENCE E. KEATING, P15780, of Cheboygan, died July 29, 2022. He was born in 1938, graduated from University of Detroit School of Law, and was admitted to the Bar in 1964.

MICHAEL D. KENNEDY, P55983, of Auburn Hills, died May 29, 2022. He was born in 1968, graduated from Detroit College of Law at Michigan State University, and was admitted to the Bar in 1996.

JOHN A. KRUSE, P16270, of Troy, died April 22, 2022. He was born in 1926, graduated from University of Detroit School of Law, and was admitted to the Bar in 1952.

DAVID C. MCLAUGHLIN, P17493, of Chelsea, died May 27, 2022. He was born in 1944, graduated from Wayne State University Law School, and was admitted to the Bar in 1970.

MARK S. PAPAZIAN, P24110, of Troy, died July 1, 2022. He was born in 1947, graduated from Detroit College of Law, and was admitted to the Bar in 1974.

EDWARD L. PARKER, P23220, of Jensen Beach, Fla., died Jan. 9, 2022. He was born in 1941, graduated from Detroit College of Law, and was admitted to the Bar in 1973.

D. ANN PARKER, P32302, of Bingham Farms, died June 2, 2022. She was born in 1945 and was admitted to the Bar in 1981.

JOHN T. ROGERS, P19569, of Birmingham, died May 31, 2022. He was born in 1924, graduated from University of Michigan Law School, and was admitted to the Bar in 1957.

STEVEN L. SCHWARTZ, P43733, of Birmingham, died Feb. 15, 2022. He was born in 1963, graduated from University of Detroit School of Law, and was admitted to the Bar in 1990.

SUSAN B. SPAGNUOLO-DAL, P30088, of Fowlerville, died July 1, 2022. She was born in 1940, graduated from University of Detroit School of Law, and was admitted to the Bar in 1979.

RONALD A. STEINBERG, P20956, of Farmington Hills, died July 13, 2022. He was born in 1939, graduated from Wayne State University Law School, and was admitted to the Bar in 1970.

DANIEL T. STEPEK, P20977, of Ypsilanti, died July 9, 2022. He was born in 1944, graduated from Wayne State University Law School, and was admitted to the Bar in 1970.

GUY L. SWEET, P34298, of Holt, died June 11, 2022. He was born in 1957 and was admitted to the Bar in 1982.

RUDOLF F. UHLAR, P28038, of Rochester Hills, died Jan. 11, 2022. He was born in 1934, graduated from University of Detroit School of Law, and was admitted to the Bar in 1977.

GREGORY N. VELTEMA, P30024, of East Lansing, died June 15, 2022. He was born in 1951, graduated from Thomas M. Cooley Law School, and was admitted to the Bar in 1979.

ROBERT F. WILLIAMS, P22366, of Grand Rapids, died Dec. 28, 2021. He was born in 1927, graduated from University of Michigan Law School, and was admitted to the Bar in 1952.

In Memoriam information is published as soon as possible after it is received. To notify us of the passing of a loved one or colleague, please email barjournal@michbar.org.

PLAIN LANGUAGE

How to draft a bad contract (Part 1)

BY MARK COHEN

Many experts have written on how to draft a good contract.[1] I'll approach the issue from the opposite end by explaining how to draft a bad one.[2]

Why do lawyers draft bad contracts? Lack of skill, most likely. Or blind copying of old forms. A cynic might even say self-interest. A good contract clearly sets forth the rights and duties of the parties, defines key terms, addresses all issues that might arise, contains no ambiguities or inconsistencies, and uses plain English so that non-lawyers can easily understand it. In short, a good contract reduces the risk of misunderstandings and costly (but sometimes profitable) litigation. Good contracts can also mean that clients need not rely so heavily on lawyers to explain them — which in turn can mean less work for lawyers.

The techniques that a lawyer may use to draft a bad contract are limited only by the lawyer's creativity. Still, in my 33 years of practice, I've found a number of proven methods, and this article summarizes them. This will not be the final word on the subject; I hope only to inspire further academic discussion.

OMIT THE CAPTION OR TITLE

A bad contract has no caption at the top of the first page telling the reader what the document is. If you must use a caption, use one that offers little information, such as "Agreement" or "Contract." Do not, for example, use "Horse-Purchase Contract" because that would reveal exactly what the document is.

INCLUDE A FORMAL INTRODUCTION

A bad contract begins with a verbose, formal introduction. Why? Because that's how they did it in England 400 years ago. Here's a sample bad introduction that you may use:

> This Agreement (hereinafter "Agreement") is made and entered into this ____ day of _____, 20___, by and between John Jones of Denver, Colorado (hereinafter "Seller") and Suzy Smith of Durango, Colorado (hereinafter "Buyer") for the purchase of Seller's fifty percent (50%) interest in the horse known as "Silver."

Do *not* use straightforward language like this:

> This is an agreement between John Jones and Suzy Smith for the purchase of Jones's 50% interest in the horse known as Silver.

USE VERBOSE RECITALS RATHER THAN SHORT SUMMARIES

Historically, contracts included recitals to provide background, clarify intent, add to consideration, or bolster the importance of conditions in the contract.[3] A bad contract should include recitals that accomplish none of these goals and that include *WHEREAS* and *NOW, THEREFORE*. Example:

> WHEREAS, Jones and Smith each own a fifty percent (50%) ownership interest in the horse known as "Silver";
>
> WHEREAS, Smith desires to purchase Jones's fifty percent (50%) ownership interest in said horse;
>
> WHEREAS, Jones is willing to sell his fifty percent (50%) ownership interest in "Silver" to Smith on the terms set forth herein; and,

"Plain Language," edited by Joseph Kimble, has been a regular feature of the *Michigan Bar Journal* for 37 years. To contribute an article, contact Prof. Kimble at WMU–Cooley Law School, 300 S. Capitol Ave., Lansing, MI 48933, or at kimblej@cooley.edu. For an index of past columns, visit www.michbar.org/plainlanguage.

> WHEREAS, Smith is willing to purchase Jones's fifty percent (50%) ownership interest in "Silver" on the terms set forth herein.
>
> NOW, THEREFORE, in consideration of the mutual covenants herein contained, and other good and valuable consideration, in hand paid, the receipt and adequacy of which is hereby acknowledged, the parties hereto mutually agree as follows:

Always use the *WHEREAS/NOW, THEREFORE* format for recitals. Do *not* replace the recitals with a concise summary such as this:

> **Background**
>
> Jones and Smith purchased a horse for $50,000 on January 1, 2012. Each paid $25,000 for a 50% interest in the horse. Because differences arose between Jones and Smith, they have agreed to resolve their differences on the terms set forth in this Agreement …..

You can also increase a contract's badness by including definitions or substantive provisions in the recitals. This creates an opportunity to later research and brief the issue whether the recitals are part of the enforceable agreement.[4]

USE *WITNESSETH*

Use *WITNESSETH* to separate the introduction from the contractual terms.[5] Why? Because that's how they did it in England 400 years ago. I recommend using a bold font, centering it, inserting a space between the letters, and underscoring each letter like this:

W I T N E S S E T H

If you want, consider using the Olde English Text font for this:

𝔚 𝔍 𝔗 𝔑 𝔈 𝔖 𝔖 𝔈 𝔗 𝔎

DON'T DEFINE KEY TERMS

A bad contract avoids defining technical words or terms of art altogether or defines them in a way that prevents all parties from sharing a common understanding of them. If you must include definitions, you may still draft a bad contract by:

- using ambiguous words in your definitions (for example, a "ton" could mean 2,000 pounds or a long ton of 2,200 pounds);
- defining terms not used in the contract;
- using the defined term in the definition (for example, you may define a "writing" to mean "any writing");
- defining more terms than necessary;
- using inconsistent definitions;
- defining terms only after they have already appeared in the contract;
- including substantive provisions in the definitions;
- putting a definition used only once in an alphabetical section at the beginning, rather than where it's used.

OMIT THE CONSIDERATION

An agreement not supported by consideration is, of course, invalid and unenforceable. A truly bad contract omits any mention of consideration. If you must include language about consideration, be vague by writing something like "for good and valuable consideration, the receipt of which is hereby acknowledged." Do *not* mention terms such as price, quantity, quality, time of performance, and time of payment.

USE INCONSISTENT TERMINOLOGY

To draft a bad contract, you should use multiple terms to refer to the same thing. For example, if the contract defines "Agreement" to mean "this Agreement" (which is usually an unnecessary definition to begin with), you should sometimes use "Contract" or "this document" rather than "Agreement." This will reduce your contract's readability and may even create confusion, thus improving its badness.

OMIT OR USE MISLEADING HEADINGS

Headings allow readers to quickly see what each paragraph is about. A truly bad contract has no or few headings, forcing readers to peruse the entire document to find what they're looking for. If you must use headings, consider ones that do not accurately reflect the issue addressed in that paragraph. For instance, you might use "Attorney Fees" as a heading but include a waiver of jury trial in that paragraph. This may create confusion about whether the jury waiver is enforceable.[6]

INCLUDE UNRELATED ITEMS IN THE SAME PARAGRAPH

This is one of my favorite methods for drafting a bad contract. For example, in a paragraph stating that neither party may assign its interest in the contract, include a provision that requires an award of attorney fees to the prevailing party in any litigation. Do *not* create a separate paragraph with its own heading of "Attorney Fees" to address the issue of fees.

DO NOT NUMBER THE PARAGRAPHS OR PAGES

Numbered paragraphs and pages make it easier for people to find and discuss specific portions of the contract. That's bad. It is more fun (and more profitable) to spend ten additional minutes in court while the judge and opposing counsel search the document for the relevant provision.

Sometimes you can help by saying something like, "I'm looking at the sixth paragraph up from the bottom on the seventeenth page, about midway through the paragraph, right after the semicolon."

Then sit back and relax while everyone struggles to find page 17 because you didn't number the pages.

If you must number your paragraphs and pages, consider using the archaic Roman-numeral system. You will impress others with your knowledge of the numeric system used in ancient Rome. (Be sure to use only whole numbers in your contract because the Roman system contains no way to calculate fractions or to represent the concept of zero.)

This article originally appeared in 44 The Colorado Lawyer *79 (August 2015). It has minor edits. Reprinted with permission.*

Mark Cohen earned a B.A. in economics at Whitman College, his law degree at the University of Colorado, and an LL.M. in agricultural law from the University of Arkansas, where he also taught advanced legal writing. Cohen's practice focuses on business and real-estate litigation, and he speaks often on contracts, easements, the benefits of plain English, and piercing the corporate veil.

ENDNOTES

1. See, e.g., Adams, *A Manual of Style for Contract Drafting (4th ed)* (Chicago: American Bar Association, 2018); Burnham, *Drafting and Analyzing Contracts: A Guide to the Practical Application of the Principles of Contract Law (4th ed)* (Durham: Carolina Academic Press, 2016); and Garner, *Garner's Guidelines for Drafting and Editing Contracts* (St. Paul: West Academic Publishing, 2019).

2. For an article that does something similar, see McDonald, *The Ten Worst Faults in Drafting Contracts*, 11 Scribes J Legal Writing 25 (2007).

3. Jacobson, *A Checklist for Drafting Good Contracts*, 5 J ALWD 79, 91 (2008), available at <https://www.alwd.org/lcr-archives/fall-2008-volume-5/209-a-checklist-for-drafting-good-contracts> [https://perma.cc/XA4G-7ZE4] (website accessed August 5, 2022).

4. See, e.g., *McKinnon v Baker*, 220 Neb 314, 317; 370 NW2d 492 (1985) (Recitals are "generally background statements and do not ordinarily form any part of the real agreement.")

5. Some prefer to insert *WITNESSETH* between the introduction and recitals. Others suggest that it's more appropriate after the recitals.

6. See, e.g., *Haynes v Farmers Ins Exch*, 32 Cal 4th 1198, 1205; 89 P3d 381 (2004) (refusing to enforce a provision limiting coverage contained in a section with the heading "Other Insurance").

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STATE BAR OF MICHIGAN

ETHICAL PERSPECTIVE

Pernicious politics:

IT'S TIME TO BENCH PARTISAN POLITICS FROM THE BENCH

BY HON. CHRISTOPHER S. NINOMIYA

The judicial branch is once again in danger of bending and breaking. Political parties have adopted strategies that involve trying to weaponize the judiciary, and some would suggest that those strategies are working. It is not being done covertly or on the sly. It is open and obvious and even becoming regular fodder during campaign speeches. This is not a novel approach, nor is it a new problem. Various efforts and battles to control the judiciary have been waged for centuries.

As the finishing touches were being placed on this column, a proposal to impose term limits on the justices of the United States Supreme Court was pending in Congress. This is in addition to other proposals under consideration to increase the number of justices and other attempts to create more "balance" on the high court.

This author respectfully submits that the judiciary should remain fiercely independent and apolitical, particularly when the country seems sharply divided down political fault lines and our democracy is feeling tremors in its very foundation. It is time for the judiciary to reassert its independence and maintain its integrity.

As a sitting judge, I am not naïve nor arrogant enough to suggest that judges and judicial candidates are above the traditional political fray. All elected officials must engage in the process to at least some degree. But as extreme and divisive as our national politics have become, history has apparently taught us nothing. As judges, we are certainly not better or more important than anyone else, and we are by no means superior to the two other branches of government. But we are different from the other two branches in an increasingly important aspect.

With a few notable exceptions and the caveat and acknowledgement that politics has always played at least some part in the judicial branch, we have been traditionally and historically nonpartisan in carrying out our constitutional responsibilities. At a minimum, it is what good jurists have always striven for despite political parties vying for power in the hopes that they will be able to put their stamp on history by appointing judges that presumably share their political views. The judicial confirmation process itself has become a charade, forcing potential judicial appointees to tie themselves in knots in an effort to avoid providing any semblance of an answer to pointed questions. But as the late U.S. Supreme Court Justice Ruth Bader Ginsburg pointed out, "[A] judge sworn to decide impartially can offer no forecasts, no hints, for that would show not only disregard for the specifics of the particular case, it would display disdain for the entire judicial process."[1]

On state and local levels, judicial positions have similarly been politicized. The Judicial Tenure Commission is regularly confronted with questions as to whether judges or judicial candidates have crossed ethical boundaries by attending political functions, endorsing political candidates, or engaging in overtly political conduct while seeking judicial office. Each election cycle, the conduct seems bolder and more egregious, which leads one to believe that the distinction and proud heritage of the judiciary is being eroded by wave after wave of political gamesmanship. As we have all witnessed, it is not uncommon for judges to be publicly criticized by political figures if a particular ruling does not go their way. Some politicians and commentators even presume that a "conservative" or "liberal" judge will rule in their favor based on the judge's presumptive party affiliation or judicial philosophy. Sadly, they have

"Ethical Perspective" is a regular column providing the drafter's opinion regarding the application of the Michigan Rules of Professional Conduct. It is not legal advice. To contribute an article, please contact SBM Ethics at ethics@michbar.org.

frequently lost sight of the individual functions and responsibilities of our three branches of government. The lines should not and must not be blurred.

It has become clear that some politicians view the judiciary simply as a means to support their political agendas. However, instead of being pawns in a political game, the judiciary needs to diligently maintain its independence. Judges are guided and bound by the Constitution and established canons, laws, and precedent. They are not beholden to the powers that appointed them or helped them attain office. Nowhere in the judicial oath is it mentioned that we swear to uphold the agenda of the political party that nominates or supports us. We should cast aside with aspersions anyone trying to be a judicial Geppetto. Furthermore, judges or judicial candidates wanting to wrap themselves in a cloak of a political party to gain office or march in lockstep with a political party's agenda regardless of the law are committing a tremendous injustice with ramifications that affect the integrity of the entire judiciary. These are quintessential leaves that need to be promptly and vigorously shaken from the judicial branch.

Instead, learned judges should carefully weigh facts and evidence and evenly, fairly, and objectively apply the law. Case outcomes are ideally dictated by the careful consideration and adherence to this procedural protocol. There is always room for respectful debate and countless variations of judicial philosophies. But the crux of a healthy and independent judiciary harkens back to the Constitution — it is a judge's guiding light and as stable as the Rock of Gibraltar. Regardless of whether an outcome personally appeals to a judge or to the public, and regardless of whether it aligns with our personal or political beliefs, our oath and our duty is to uphold the Constitution and our laws. U.S. Supreme Court Chief Justice John Roberts has recognized this very principle: "Judges have to have the humility to recognize that they operate within a system of precedent, shaped by other judges equally striving to live up to the judicial oath."[2]

The Michigan Code of Judicial Conduct is specific and instructive when it comes to the topic of judges, independence, and political activity. In fact, Judicial Canon 1 is entitled, "A Judge should Uphold the Integrity and Independence of the Judiciary." It is unlikely a mere coincidence that the drafters of the judicial canons reference the importance of judicial independence right out of the gate. Canon 1 goes on to state that "an independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should personally observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. A judge should always be aware that the judicial system is for the benefit of the litigant and the public, not the judiciary."

Judicial Canon 2(F) states that "a judge should not allow activity as a member of an organization to cast doubt on the judge's ability to perform the function of the office in a manner consistent with the Michigan Code of Judicial Conduct, the laws of this state, and the Michigan and United States Constitutions." It is also made clear in Judicial Canon 5 that several of the regulatory canons apply to judicial *candidates* as well as current judges. They are equally subject to discipline for judicial campaign misconduct.

Judicial Canon 3(A)(1) goes on to say that "a judge should be faithful to the law and maintain professional competence in it. A judge should be unswayed by partisan interests, public clamor, or fear of criticism." Judicial Canon 7 further discusses political activity by judges and judicial candidates. Judicial Canon 7(A)(1) indicates that "a judge or candidate for judicial office should not: (a) hold any office in a political party; (b) make speeches on behalf of a political party or nonjudicial candidate or publicly endorse a candidate for nonjudicial office." Judicial Canon 7(A)(2) allows for only limited political activity, including "(a) attend[ing] political gatherings; (b) speak[ing] to such gatherings on the judge's own behalf or on behalf of other judicial candidates; and (c) contribut[ing] to a political party."

It is clear that the drafters of the Michigan judicial canons wanted to ensure that judges and judicial candidates were not engaging in overtly partisan politics. But trying to limit political operatives is a different type of challenge that roughly equates to pouring sand into a colander. One frequent concern is a political party or partisan candidate campaigning on behalf of a judge, including them on partisan literature, or otherwise claiming or alluding to the judge or candidate as a member of their tribe. While it is certainly possible to hold judges and judicial candidates accountable, it is much more difficult keeping the politicians and political forces at bay. For a variety of reasons, it may be mutually beneficial to attach themselves at the hip. It is therefore incumbent on those individuals running for judicial office to ensure that the ethical line is not crossed. Unfortunately, in some instances, this is akin to asking the fox to guard the henhouse.

To be clear, this author is not entirely cynical, skeptical, and pessimistic. We are fortunate to have a significant majority of Michigan judges who adhere to the basic judicial philosophy that is lauded by this article. For example, a recent examination of the 2019-2020 session of the Michigan Supreme Court showed that nearly 67% of the court's 48 cases resulted in unanimous opinions.

Only 33% of the decisions were split and of those split decisions, only two were decided along party lines.[3] A similar look at the Michigan Supreme Court 2021-22 session showed that just 13% of decisions fell upon party lines.[4]

Perhaps there is some irony at play, as our Michigan Supreme Court judges are nominated by political parties. However, this is an encouraging example of how judges can simultaneously be thoughtful, independent, considerate, respectful, and collegial. And while it is important for judges to break free from the reigns of a political party, it is equally important for political parties to understand and respect that judicial officers are not their means to an end.

It may also be an appropriate time to reexamine the methods by which we appoint and nominate our Michigan Supreme Court justices. If meaningful reform is to be accomplished, it makes sense to start at the top. The current process has become extremely political and is antithetical to a truly independent judiciary being appointed or nominated. Nonpartisan candidates are effectively forced to choose a side. The process seems awkward, exclusive, and disingenuous in many respects.

Perhaps it is time to consider a bipartisan screening commission that serves as a gatekeeper for those seeking appointment or to those party nominees that ultimately appear on the ballot if the current nomination process is left intact. A threshold level of qualifications, experience, and ethical integrity could be established by the commission as a prerequisite for consideration. And while candidates who failed to meet the developed and agreed-upon criteria would not be eligible for appointment or nomination, they would, of course, remain free to run for election. A reasonable set of reforms to the existing process would ensure that only well-qualified candidates are ultimately considered for appointment or nomination. This would be a step in the right direction toward a judiciary that remains truly independent and highly qualified.

I am not trying to insinuate that unqualified candidates have ascended to the upper echelons of our courts on the wings of politicians, but it would certainly make sense to reduce this possibility with appropriate reforms and logically extend those reforms to the trial courts. It is reasonable to believe that some judicial candidates have obtained office (or at least increased their chances) by pandering to the powers that be, and that is unfortunate. The money train often accompanies political endorsements, and it is increasingly difficult to mount a serious campaign without sufficient financial resources. And for some, the lure of the lucre compels them to try and hitch their horse to a political wagon. Hopefully with additional training and education, they will soon realize that the calling of being a judge involves something far greater than adhering to a political agenda, keeping supporters satisfied, and obtaining or retaining judicial office.

In conclusion, it is important to remain vigilant in these turbulent political times. The judiciary needs to be solid and steadfast in the political seas that swirl around us. By remaining independent, we can successfully navigate a course between the Scylla and Charybdis. And despite the temptations, judges and judicial candidates cannot allow themselves to be drawn into the political morass. It is respectfully submitted that if the judicial branch becomes as political as the other two branches of government, our entire system of checks and balances is in peril. We need to protect the foundation of government and remove the judicial branch from partisan politics to the greatest extent possible. The constant attacks upon judicial independence are slowly, but surely, damaging the walls of the institution. Perhaps it is time to shore up the foundation.

Hon. Christopher S. Ninomiya is a judge in Michigan's 41st Circuit and a member of the State Bar of Michigan Standing Committee on Judicial Ethics and the SBM Representative Assembly.

ENDNOTES

1. *Nomination of Ruth Bader Ginsburg, to be Associate Justice of the Supreme Court of the United States: Hearings Before the Committee on the Judiciary, United States Senate,* 103rd Cong, 52 (1993), available at <https://www.govinfo.gov/content/pkg/GPO-CHRG-GINSBURG/pdf/GPO-CHRG-GINSBURG.pdf> [https://perma.cc/3E3B-CLV2] (website accessed August 16, 2022).
2. *Confirmation Hearing on the Nomination of John G. Roberts, Jr. to be Chief Justice of the United States: Hearing Before the Committee on the Judiciary, United States Senate, 109th Congress, pp 55-56 (2005),* available at <https://www.govinfo.gov/content/pkg/GPO-CHRG-ROBERTS/pdf/GPO-CHRG-ROBERTS.pdf> [https://perma.cc/3UXA-7J4Z] (website accessed August 16, 2022).
3. *Out of 48 Cases Last Term, Supreme Court Divided on Party Lines Twice,* MIRS (January 9, 2021).
4. *MSC Splits Along Party Lines 13% This Term,* MIRS (July 29, 2022).

BEST PRACTICES

Shareholder oppression and business divorces

BY GERARD V. MANTESE AND BRIAN P. MARKHAM

The big and powerful don't always win. See, e.g., *David v. Goliath*; *Rocky v. Creed*; *Skywalker v. Vader*; *Brockovich v. PG&E*. This is no different in the world of closely held businesses, where the minority shareholder is often seemingly powerless.

Minority shareholders are particularly vulnerable to abuse at the hands of those in control of a corporation.[1] When majority shareholders resort to unfair or oppressive tactics, whether out of spite or greed, the minority can find themselves in a position where they are unable to defend themselves and, with no ready market for their shares, unable to escape.[2]

Accordingly, minority shareholders need a powerful weapon to deter and remedy majority abuse. Shareholder oppression law provides that weapon; it is David's slingshot for minority owners facing Goliath.

WHAT IS SHAREHOLDER OPPRESSION?

Courts have recognized and remedied the abuse of minority shareholders for well over a century. But courts, practitioners, and scholars still debate: just *what* is shareholder oppression? Is it unfair treatment? Is it a fiduciary breach? Is it defeated expectations? Is it fraud? Is it a single action or a course of actions?

The answer varies by state, but oppressive conduct typically falls into one of two categories that focus on either the majority's conduct (the "fair dealing" approach) or the minority's expectations (the "reasonable expectations" approach).[3] The approach that applies in a particular state derives from the statute, caselaw, or both. Michigan's law is an example of a statutory "fair dealing" approach that provides for an action against directors or those in control who engage in conduct that is "willfully unfair and oppressive," defined as "a continuing course of conduct or a significant action or series of actions that substantially interferes with the interests of the shareholder as a shareholder."[4] Conversely, for example, while New York's oppression action is statutory, its "reasonable expectations" approach comes from the caselaw, under which "oppression should be deemed to arise only when the majority conduct substantially defeats expectations that … were central to the petitioner's decision to join the venture."[5]

How to oppress a minority shareholder: A quick guide to achieving oppression liability

With shareholder oppression being an equitable matter, courts have wide latitude when considering whether the majority's conduct amounts to actionable oppression[6] and a finding of oppression depends heavily on the facts before the court.[7] Accordingly, practitioners representing oppressed shareholders must have a keen eye to spot the majority's various methods of oppression — to paraphrase fomer U.S. Supreme Court Justice Potter Stewart, practitioners must know oppression when they see it.[8]

Thankfully, caselaw provides a handy guide. If you're a majority shareholder looking to oppress your minority shareholders (and assume the accompanying liability), you can try these tactics, all of which Michigan appellate courts have found to be evidence of oppression:

- dividend starvation (arbitrarily refusing to declare dividends);[9]

"Best Practices" is a regular column of the Michigan Bar Journal, edited by Georger Strander for the Michigan Bar Journal Committee. To contribute an article, contact Mr. Strander at gstrander@ingham.org.

- taking *de facto* dividends (taking compensation, such as bonuses, not made available to minority shareholders);[10]
- unfair redemption offers;[11]
- taking exorbitant salaries;[12]
- self-dealing;[13]
- withholding information (often to conceal the majority's oppressive conduct);[14]
- siphoning profits (diverting money to the majority's outside ventures);[15]
- terminating employment (salary is often the main source of value for close corporation owners);[16]
- and the list goes on …[17]

Often, oppression is not just one or two of these methods, but instead is a game of synergies. A series of actions that look innocent in isolation can together achieve maximum oppressive effect.[18] For example, the majority may cease issuing dividends and instead stockpile cash. Knowing that the minority owner is now receiving no benefit from his investment, the majority will offer to purchase the minority's shares at a grossly low price; the minority must accept if he wishes to realize any value at all. This is where the law of shareholder oppression steps in.

A BRIEF HISTORY OF PROTECTING MINORITY SHAREHOLDERS

Fiduciary duties and early caselaw

At the root and heart of shareholder oppression law is the ancient and inveterate concept of the fiduciary duty — the idea that a person owes the utmost fidelity ("the punctilio of an honor most sensitive"[19]) to another who has reposed trust in him.[20] A fiduciary owes the duties of loyalty, honesty and good faith, full disclosure, and due care.[21] Michigan courts have long recognized that directors owe shareholders these fiduciary duties.[22] It is also well-established in Michigan caselaw that majority shareholders owe these same duties to minority shareholders.[23]

Prior to the enactment of the oppression statutes, these fiduciary concepts gave courts the tools to provide equitable remedies to minority shareholders harmed by oppressive conduct. More than 130 years ago in *Miner v. Belle Isle Ice Co*, for instance, the Michigan Supreme Court declared that majority shareholders "assume the trust relation occupied by the corporation towards its stockholders"[24] and therefore must act with the "utmost good faith in the control and management of the corporation as to the minority."[25] The Court accordingly exercised its equitable powers and ordered a full accounting and disgorgement to remedy the majority's fiduciary breaches including siphoning profits and dividend starvation — both classic oppression techniques.[26]

In other jurisdictions, the invocation of fiduciary duties to remedy oppressive conduct goes back even further. Take the 1834 New York case of *Muir v. Throop*, which concerned an overt freeze-out of a minority shareholder and director from all participation in decision making — the majority wrote a bylaw specifically excluding the plaintiff (and only the plaintiff) "from all knowledge of their business transactions."[27] Though the statute gave the majority the power to make bylaws concerning corporate governance and management, the court held that because of the "trust reposed in [a director] by the stockholders," bylaws "must be reasonable [and] must not be unequal, oppressive, or vexatious."[28] The court found that the bylaw was unequal and oppressive and ordered the defendants to allow the plaintiff to inspect the company's books and records.[29]

Statutory protections

Soon enough, legislatures began recognizing minority shareholders' need for protection. Early state statutes codified the dramatic remedy of dissolution as the solution when the majority engages in oppressive conduct. The earliest of those laws appears to be a 1931 California statute which provided for dissolution where "the directors or those in control of the corporation have been guilty of persistent fraud or mismanagement or abuse of authority, or persistent unfairness toward minority shareholders."[30]

Illinois and Pennsylvania followed with their own dissolution statutes in 1933.[31] An oppression action was included in the 1950 Model Business Corporation Act,[32] and from there it was off to the races as states began codifying their own oppression actions.[33] Today, 40 states have statutes that provide protections for minority shareholders against the actions of an unfair majority.[34] Minority shareholders in states that do not provide such a cause of action must still turn to breach of fiduciary duty claims when seeking relief from an oppressive majority.[35]

THE VAST EQUITABLE POWERS OF THE COURTS TO REMEDY SHAREHOLDER OPPRESSION

Because shareholder oppression is an equitable cause of action,[36] the full panoply of equitable remedies is available to rectify the majority's wrongdoing.[37] A court sitting in equity has vast powers to fashion a remedy. As the U.S. Supreme Court recognized, the "flexibility inherent in equitable procedure enables courts to meet new situations [that] demand equitable intervention, and to accord all the relief necessary to correct … particular injustices."[38] Stated more simply, "[e]quity will not suffer a wrong without a remedy."[39]

In some states, a court's broad equitable ability to provide justice as it sees fit is enshrined in the oppression statute. Michigan's statute provides that a court "may make an order or grant relief *as it considers appropriate*, including, *without limitation*," and thereafter is an enumerated list of remedies, including injunctive and declarato-

ry relief, damages, and a buyout remedy (emphasis added).[40] Even in states where the oppression statute provides only for dissolution, courts often recognize that less drastic remedies are also available, often on the theory that the greater power includes the lesser.[41]

The statutory and equitable remedies available to courts are wide ranging, including damages and injunctive relief, but at the end of the day, courts often favor the remedy of a buyout, by which the court orders the corporation or the oppressors to purchase the oppressed shareholders' interests at fair value.[42] Indeed, it has been said that in business disputes "[t]here must be a 'divorce,'" as the problems that led the parties to litigation "are inherent in their relationship."[43] They cannot be fixed "by an order attempting to modify or control their actions while they remain 'married' to each other. The conflict will remain, and its symptoms will reappear in what will inevitably be a continuing war between the two."[44] Separating the warring parties allows the company to move forward, avoids future litigation, and provides the oppressed shareholders with a reasonable measure of justice.

CONCLUSION

Minority shareholders in close corporations face a unique problem in the business world. Without special protection under the law, they are particularly vulnerable to a host of abusive tactics by those in control of a corporation. The law of shareholder oppression offers special protection by providing minority shareholders with a cause of action against oppressive conduct. And where oppression is found, a court has broad discretion to grant whatever remedy is appropriate to rectify the injustice, with a buyout remedy offering the best way forward for the parties to be free of persistent litigation and entanglements.

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1. *Darvin v Belmont Industries*, 40 Mich App 672, 677–678; 199 NW2d 542 (1972) (discussing the "special problems inherent in the close corporation").
2. *Id.*
3. Mantese & Bolyea, *Shareholder Oppression Litigation—A National Perspective*, 40 Mich Bus L J 38, 38–39 (Fall 2020).
4. MCL 450.1489(3).
5. *Matter of Kemp & Beatley (Gardstein)*, 64 NY2d 63, 73; 473 NE2d 1173 (1984).
6. *Madugula v Taub*, 496 Mich 685, 711–15; 853 NW2d 75 (2014) (characterizing an action under MCL 450.1489 as an equitable claim).
7. *Kemp*, 64 NY2d at 73.
8. *Jacobellis v State of Ohio*, 378 US 184, 197; 84 S Ct 1676; 12 L Ed 2d 793 (1964) (Stewart, J., concurring) (declining to define exactly what content is obscene and instead declaring, "I know it when I see it").
9. *Miller v Magline, Inc*, 76 Mich App 284; 256 NW2d 761 (1977).
10. *Erdman v Yolles*, 62 Mich App 594; 233 NW2d 667 (1975).
11. *Schimke v Liquid Dustlayer, Inc*, unpublished per curiam opinion of the Court of Appeals, issued September 24, 2009 (Docket No 282421).
12. *Berger v Katz*, unpublished per curiam opinion of the Court of Appeals, issued July 28, 2011 (Docket Nos 291663 and 293880).
13. *Thompson v Walker*, 253 Mich 126; 234 NW 144 (1931).
14. *Madugula v Taub*, unpublished per curiam opinion of the Court of Appeals, issued October 25, 2012 (Docket No 298425), p 2 (rev'd on other grounds, *Madugula v Taub*, 496 Mich 685).
15. *Lozowski v Benedict*, unpublished per curiam opinion of the Court of Appeals, issued February 7, 2006 (Docket No 257219).
16. Moll, *Shareholder Oppression & Dividend Policy in the Close Corporation*, 60 Wash & Lee L Rev 841, 848 (2003).
17. Generally, Mantese & Williamson, *Litigation Between Shareholders in Closely Held Corporations*, 1 Wayne St U J Bus L 1 (2018).
18. *Shareholder Oppression*, 60 Wash & Lee L Rev at 848–50.
19. *Meinhard v Salmon*, 249 NY 458, 464; 164 NE 545 (1928).
20. Mantese, *The Fiduciary Duty—Et Tu Brute?* 99 Mich Bar J 52 (2020).
21. *Id.*
22. *Murphy v Inman*, ____ Mich ____, issued April 5, 2022 (Docket No 161454) (citing cases).
23 *Veeser v Robinson Hotel Co*, 275 Mich 133, 138; 266 NW 54 (1936).
24. *Miner v Belle Isle Ice Co*, 93 Mich 97, 114; 53 NW 218 (1892).
25. *Id.* at 117.
26. *Id.* at 117–18. Though it did not go so far, the Court recognized that it had the power to dissolve the corporation to remedy such wrongs. Dissolution would go on to become a prevalent feature in oppression statutes.
27. *People ex rel Muir v Throop*, 12 Wend 183, 186 (1834).
28. *Id.* at 185–86 and *Berger*, unpub op at 4 (holding that a general grant of authority in the bylaws cannot justify oppressive conduct).
29. *Muir*, 12 Wend at 186–87.
30. O'Neal, Thompson & Moll, *Oppression of Minority Shareholders and LLC Members* (Rev 2d) (2022), § 7:11 n 1, quoting Cal Civ Code § 404 (1931).
31. *Id.*
32. *Id.*
33. Matheson & Maler, *A Simple Statutory Solution to Minority Oppression in the Closely Held Business*, 91 Minn L Rev 657, 665 (2007). Oppression law in our sister nations of the United Kingdom and Canada followed similar paths, with oppression remedies being codified in the U.K. in 1948 and in Canada in 1975, Ben-Ishai & Puri, *The Canadian Oppression Remedy Judicially Considered: 1995-2001*, 30 Queen's L J 79 (2004).
34. O'Neal, *Oppression of Minority Shareholders and LLC Members*, § 7:11. The remaining states provide minority protections in a more limited set of circumstances, such as against illegal and fraudulent (but not oppressive) behavior (e.g., Florida) or only when there is a 50/50 deadlock (e.g., Ohio), *Id.* at § 7:11 n.4.
35. *Id.* at § 7:11.
36. *Madugula*, 496 Mich at 711–15.
37. *Id.* at 708–09.
38. *Holland v Florida*, 560 US 631, 649–50; 130 S Ct 2549; 177 L Ed 2d 130 (2010).
39. *Cannon v Bingman*, 383 SW2d 169, 174 (Mo App, 1964).
40. MCL 450.1489(1).
41. See, e.g., *Kemp*, 64 NY2d at 74 ("A court has broad latitude in fashioning alternative relief, but . . . should not hesitate to order dissolution [when appropriate]") and *Robinson v Langenbach*, 599 SW3d 167, 182 (Mo, 2020).
42. *Shareholder Oppression Litigation*, 40 Mich Bus L J at 41–42.
43. *Bonavita v Corbo*, 300 NJ Super 179, 198–99; 692 A 2d 119 (1996).
44. *Id.* at 199.

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Conviction integrity units in Michigan: History and resources

BY JANE MELAND

In 1997, brothers Melvin and George DeJesus were convicted of murder in Oakland County Circuit Court and sentenced to life without parole. Throughout their trial and imprisonment, they maintained their innocence but were unable to seek redress until almost 25 years later, when newly discovered evidence exonerated the brothers.[1]

Wrongful conviction stories like Melvin and George DeJesus are nothing new. Since 1989, there have been 3,178 recorded exonerations,[2] led primarily by non-profit organizations like the Innocence Project and defense attorneys. But an unlikely participant has joined these efforts: prosecutors' offices.

It may seem antithetical for a prosecutor's office to actively seek to overturn a conviction, but with the rise in exonerations and shifts in rules of professional conduct, prosecutors' offices have taken a proactive role in responding to these issues. One notable response has been the creation of conviction integrity units (CIU) — a dedicated and independent department within a prosecutor's office tasked with the responsibility of preventing, identifying, and remedying false convictions.[3] While relatively new, the impact of CIUs is being felt across the nation and here in Michigan.

HISTORY OF CIUS IN THE U.S. AND MICHIGAN

One of the first CIUs in the United States was established by the Dallas County Prosecutor's Office in 2007. The impetus for its creation was a record 12 exonerations in less than a decade[4] which put Dallas County at the top of the nation's prosecutors' offices with the highest number of wrongful convictions. Under the leadership of a new district attorney, Dallas County created its CIU to identify, address, and correct the root causes that led to this flood of wrongful convictions. Dallas County's CIU continues to investigate wrongful convictions, and its model has been replicated across the nation.

As of June 2022, there are 94 CIUs nationwide, including five in Michigan.[5] Michigan's first CIU was established in 2018 in Wayne County[6] and shortly thereafter, Attorney General Dana Nessel created a statewide CIU to support prosecutors' offices outside of Wayne County.[7] In the last two years, Macomb, Oakland, and Washtenaw counties created their own CIUs.

Wayne County's CIU has led the way in exonerations and new trials, with 29 individuals receiving relief as of fall 2021.[8] Detailed exoneration statistics for Michigan and the nation, including demographic and case information, can be found on the National Registry of Exonerations Interactive Data Display.[9] Additionally, the registry provides an extensive array of reports and graphical data that offer an in-depth picture of exonerations across the United States.

PROCEDURE FOR REQUESTING REINVESTIGATION OF CASES

Pursuant to the Michigan Rules of Professional Conduct (MRPC), prosecutors have an ethical obligation to take corrective action when newly discovered evidence calls a conviction into question.[10] Corrective action means disclosing and investigating material evidence and seeking to remedy a wrongful conviction when new evidence establishes a defendant's innocence.[11] CIUs create a formal framework for facilitating this review process and ensuring compliance with the MRPC.

Each of Michigan's CIUs has established procedures and protocols for reinvestigating a case.[12] The claimant must meet specific eligibility requirements and the request for review must be submitted in writing. The eligibility criteria for CIU review are fairly consistent throughout the state: a person seeking review must have been con-

victed of a crime in Michigan or the county in which they are requesting review; must present a claim of actual innocence; and the claim must be supported by new evidence that was not presented at trial or on appeal.[13] Additionally, most counties require that all appeals be final.

Once the claimant has filed a written application that meets the eligibility requirements, the CIU will investigate the claim and, if substantiated, refer the case to the prosecutor, who may then initiate the process for granting relief.

TOOLS FOR CIUS

As CIUs continue to develop, a shared understanding of best practices is crucial to their success. To facilitate the sharing of information, the Quattrone Center at the University of Pennsylvania Carey Law School has created a Conviction Review/Integrity Units Resource Center.[14] The center aggregates resources for new and existing prosecutor units working on innocence investigations. Some of the materials include reports, toolkits, guidelines for collaboration with defense attorneys, resources for working with victims, and webinar recordings.[15]

CONCLUSION

The pace of exonerations shows no sign of slowing, but there's reason for optimism given the new rules of professional conduct and development of CIUs to address pre- and post-conviction claims of innocence. While a dedicated CIU may not be an option for every prosecutor's office, the best practices of established CIUs will certainly serve as guides for improving the process and solving problems throughout the state. I hope this article will serve as a starting point for those interested in seeking resources on CIUs.

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2. *Exonerations by State*, Nat'l Registry of Exonerations (July 5, 2022) <https://www.law.umich.edu/special/exoneration/Pages/Exonerations-in-the-United-States-Map.aspx> [https://perma.cc/PWK8-4RXD].

3. The titles "Conviction Integrity Unit" and "Conviction Review Unit" are used interchangeably. For simplicity's sake, I'm going to use the phrase "Conviction Integrity Unit" throughout this article. Additionally, "Conviction Integrity Unit" is the nomenclature adopted in Michigan.

4. Ware, *Dallas County Conviction Integrity Unit and the Importance of Getting it Right the First Time*, 56 NYLS L Rev 1033, 1035 (January 2012), available at <https://digitalcommons.nyls.edu/cgi/viewcontent.cgi?article=1668&context=nyls_law_review> [https://perma.cc/FPT7-H8PD].

5. *Conviction Integrity Units,* Nat'l Registry of Exonerations <https://www.law.umich.edu/special/exoneration/Pages/Conviction-Integrity-Units.aspx> [https://perma.cc/APY3-7MSC].

6. McAboy, *New Wayne County Prosecutor's Office unit takes a second look at convictions,* Click on Detroit (November 27, 2018) <https://www.clickondetroit.com/news/2018/11/27/new-wayne-county-prosecutors-office-unit-takes-second-look-at-convictions/> [https://perma.cc/CZV9-3J4C].

7. *MI AG Nessel Launches Conviction Integrity Unit*, Mich Dep't of Attorney General (April 10, 2019) <https://www.michigan.gov/ag/news/press-releases/2019/04/10/mi-ag-nessel-launches-conviction-integrity-unit> [https://perma.cc/KE5J-JUCH].

8. *Prosecutor on a Mission to Right Wrongful Convictions*, NBC News (August 18, 2021), available at <https://www.youtube.com/watch?v=9wOMNPn6j9c> [https://perma.cc/BV9V-BSRV].

9. *Exonerations by State.*

10. MRPC 3.8(f)-(g).

11. *Id.*

12. *Conviction Integrity Unit*, Mich Dep't of Attorney General <https://www.michigan.gov/ag/initiatives/conviction-integrity> [https://perma.cc/58N6-84FV]; *Conviction Integrity Unit*, Macomb County Prosecutor's Office <https://prosecutor.macombgov.org/Prosecutor-Units-ConvictionIntegrity> [https://perma.cc/W97E-B7ZV]; *Conviction Integrity Unit*, Oakland County Prosecutor's Office <https://www.oakgov.com/prosecutor/ciu/Pages/default.aspx> [https://perma.cc/TN9E-Z3Q8]; *Conviction Integrity and Expungement Unit*, Prosecutor's Office of Washtenaw County <https://www.washtenaw.org/3473/Conviction-Integrity> [https://perma.cc/42G2-LB2D]; and *Conviction Integrity Unit*, Wayne County Prosecutor's Office <https://www.waynecounty.com/elected/prosecutor/conviction-integrity-unit.aspx> [https://perma.cc/T3TL-CMY8].

13. *Id.*

14. *Conviction Review/Integrity Units Resource Center*, Univ of Penn, Quattrone Center <https://www.law.upenn.edu/institutes/quattronecenter/conviction-integrity-units-resource-center.php> [https://perma.cc/RUM4-Q4H8].

15. *Id.*

PRACTICING WELLNESS

The case for discomfort:

WHY WE STRUGGLE TO CHANGE

BY THOMAS GRDEN

"This isn't my first placement."

It's a statement I heard all too frequently while working as a therapist in a residential facility, and one I've been able to utter myself. My career in mental health began when I accepted a bachelor's level position as direct care staff at a now-defunct residential facility. The campus was half-empty and dilapidated, and the only new referrals coming in were young men whom other residential facilities refused to admit. Most students were repeat offenders, and nearly all had some form of abuse or neglect in their history.

Between the complexity of the cases and the condition of the campus, I was miserable. Incredibly, some of the young men placed there were not miserable and, in fact, were downright *comfortable* with their living situations. The explanation for this is morbid, but undeniable — by providing food, clothing, shelter, and removing them from their environment, the campus created the safest place some of them had ever experienced. Unfortunately, those conditions also removed much of their motivation to make behavioral changes. Whereas I channeled my discomfort into changing my situation by way of graduate school, the young men most comfortable at the facility had no incentive to change anything.

Journalist Sydney Harris famously quipped, "Our dilemma is that we hate change and love it at the same time — what we really want is for things to remain the same but get better."[1] Unfortunately, even the most radical optimist among us would admit that no such miracle solution exists. Logically, we know that progress is the result of time and effort. Even so, excising bad habits from our lives can feel like a daunting process. By viewing macroevolutionary principles through a micro lens, we see why this is the case: periods of little or no change are the result of prior successful changes.[2]

The adjustments you've made in the past all had a function — to stabilize yourself. Any further conscious attempts to make changes are viewed by your body as disruptive.[3] Essentially, our bodies and minds are programmed to find what works, then repeat it until it doesn't — which is how that bad habit started in the first place. Your vice might be procrastination, shopping, sugar, or even the refusal to set clear boundaries. To paraphrase Sigmund Freud, all behavior has meaning, so at some point that habit met a need and making a mindful effort to stop meeting that need in the way you're used to is uncomfortable.[4]

Hopefully, by now you're thinking about the thing you've been trying to change lately. Adults, with the advantage of being free from raging teenage hormones, are very good at identifying problems but not much better than teenagers when it comes to fixing them. Chances are, you came to the conclusion that it was time to mix things up following some consternation about the way things are now. We know making changes to benefit our health will lead to a wellness windfall, and yet we don't follow through. Inevitably, there comes a moment where the nagging subconscious refrain of "The old way was better!" is so overwhelming that you start to believe it.

Here are some tips for managing your distress when you feel yourself reaching that point:

1) Stop to identify (but don't try to change) the emotion you're feeling. Anger, fear, sadness, and disgust all served an evolutionary purpose, too, and fighting them will just double the misery. Recognizing the first sign of trouble is essential. After all, you can't avoid a storm without looking at the sky.
2) Accept that you're uncomfortable or, as they say in the military, "Embrace the suck." I can say with 100% certainty that the stress you're feeling won't be permanent.

"Practicing Wellness" is a regular column of the Michigan Bar Journal presented by the State Bar of Michigan Lawyers and Judges Assistance Program. If you'd like to contribute a guest column, please email contactljap@michbar.org.

3) Engage your five senses to distract from the discomfort. Be mindful about how often you choose to engage your sense of taste, but feel free to put on your favorite Adele song and give your puppy a good belly rub.
4) T.I.P.P. the scales back in your favor, a break-glass-in-case-of-emergency distress tolerance acronym.[4] "T" stands for temperature, and by putting an ice pack or two on your face or submerging your face in a bowl of ice water, you can trigger your mammalian dive. Your heart rate will begin to slow and blood will be redirected to your heart and brain, which helps to regulate emotions.[5] "I" stands for intense exercise, which releases endorphins. The first "P" stands for paced breathing, and the second "P" represents paired muscle relaxation. Start at your calves, and tense one muscle group at a time as you inhale and relax the muscle group as you exhale, progressively moving north until you feel your distress start to subside.[6]
5) Beware the extinction burst — as the old habit begins to die or the new habit becomes stronger, you may have the urge for one last transgression (which is never "just one last time").[7] Your brain is checking to see if engaging in the old behavior more intensely will solve the problem.

Incorporating a positive new habit or stopping a destructive one can feel like a monumental effort. Listening to your discomfort to start the change process and then managing it during the process can be absolutely grueling. If the stressors or barriers to making positive change are too overwhelming, reach out to the State Bar of Michigan Lawyers and Judges Assistance Program to find out which resources are available to you.

Thomas Grden is a clinical case manager with the State Bar of Michigan Lawyers and Judges Assistance Program.

ENDNOTES

1. *Sydney Harris Quote*, Quotes (submitted December 31, 2019) <https://www.quotes.net/quote/7880> [https://perma.cc/5HKH-MG99]. All websites cited in this article were accessed August 5, 2022.
2. Shcherbakov, *Stasis is an Inevitable Consequence of Every Successful Evolution*, 5 Biosemiotics 227 (2012).
3 . Santee, *All Behavior Has Meaning said, "Sigmund Freud", but what does it mean? The Study Behind The Book* (Los Angeles: Santee Systems Services, 2019).
4. *Distress Tolerance: TIPP*, Dialectical Behavior Therapy (2022) <https://dialectical behaviortherapy.com/distress-tolerance/tipp/> [https://perma.cc/683F-8ZNT].
5. Caution: Very cold water decreases your heart rate. If you have any heart or medical condition, have a lowered base heart rate due to medications, or are on a beta-blocker, consult your health care provider before using these skills. Avoid ice water if you are allergic to the cold.
6. Linehan, *DBT Skills Training Handouts and Worksheets* (New York: Guilford Press, 2014), pp 33-35.
7. Miltenberger, *Behavior Modification: Principles and Procedures (5th ed)* (Belmont: Wadsworth Publishing, 2011), pp 87-89.

FROM THE COMMITTEE ON MODEL CRIMINAL JURY INSTRUCTIONS

The Committee on Model Criminal Jury Instructions solicits comment on the following proposal by Dec. 1, 2022. Comments may be sent in writing to Andrea Crumback, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to MCrimJI@courts.mi.gov.

PROPOSED

The committee proposes to renumber, retitle, and amend M Crim JI 20.29 [Limiting Instruction on Expert Testimony (in Child Sexual Conduct Cases)] in order to broaden its scope to include other experts who may testify about victims' behaviors (such as victims of domestic abuse) and to add information that the jurors need not accept expert testimony, consistent with M Crim JI 5.10. The proposed instruction would renumber the instruction to M Crim JI 5.10a, and title it as Limiting Instruction on Behavioral Expert Testimony. The proposal would also add a Use Note for M Crim JI 5.10 [Expert Witness] directing the court to use M Crim JI 5.10a where an expert testifies regarding the behavioral characteristics of sexually abused children or victims of domestic violence. Deletions are in strike-through, and new language is underlined.

[AMENDED and RENUMBERED]

M Crim JI ~~20.29~~ 5.10a
Limiting Instruction on ~~Expert Testimony (in Child Criminal Sexual Conduct Cases)~~ Behavioral Expert Testimony

(1) ~~You have heard [*name expert*]'s opinion about the behavior of sexually abused children.~~ [*Name expert*] testified as an expert in the field of _____ and gave an opinion in [his/her] area of expertise. Experts are allowed to give opinions in court.

(2) However, you do not have to believe an expert's opinion. Instead, you should decide whether you believe it and how important you think it is. When deciding whether you believe an expert's opinion, think carefully about the reasons and facts [he/she] gave for [his/her] opinion and whether those facts are true. You should also think about the expert's qualifications and whether [his/her] opinion makes sense when you think about the other evidence in the case.

(3) ~~You should consider that evidence~~ If you do believe [*name expert*]'s opinion, you should consider it only for the limited purpose of deciding whether [*name complainant*]'s ~~acts~~ behavior and words after the alleged crime were consistent with those ~~of sexually abused children~~ described by the expert. ~~That evidence cannot be used to show~~ You cannot use [*name expert*]'s opinion as proof that the crime charged here was committed or that the defendant committed it.[1] Nor can it be considered an opinion by [*name expert*] that [*name complainant*] is telling the truth.

Use Note

~~This instruction is intended for use where expert testimony is offered to rebut an inference that a child complainant's behavior is inconsistent with that of actual victims of child sexual abuse. *People v Beckley*, 434 Mich 691, 725, 456 NW2d 391 (1990).~~ This instruction is used where expert testimony is offered to explain the behavior of a sexually abused child or of a physically or psychologically abused person that may appear inconsistent with having been abused. *See, e.g., People v Beckley*, 434 Mich 691, 725, 456 NW2d 391 (1990).

1. The language in this sentence may have to be eliminated or amended where the expert is not testifying for the prosecution describing conduct applicable to a criminal case.

[AMENDED] Use Note for M Crim JI 5.10
Expert Witness

Use Note

~~Do *not* use this instruction where the expert testifies regarding the characteristics of sexually abused children and about whether the complainant's behavior is consistent with those characteristics. Instead, see M Crim JI 20.29, Limiting Instruction on Expert Testimony (Child Criminal Sexual Conduct Cases).~~ *See* **M Crim JI 5.10a Limiting Instruction on Behavioral Expert Testimony** where the expert testifies regarding the behavioral characteristics of sexually abused children or victims of domestic violence.

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PROPOSED

The committee proposes to amend M Crim JI 7.16 [Duty to Retreat to Avoid Using Force or Deadly Force] to correct an error in requiring fear of imminent death or serious harm for use of non-deadly force per a published Court of Appeals decision, *People v Ogilvie* (MCOA #354355), citing MCL 780.972(2). Deletions are in strike-through, and new language is underlined.

[AMENDED] M Crim JI 7.16
Duty to Retreat to Avoid Using Force or Deadly Force

(1) A person can use [force/deadly force] in self-defense only where it is necessary to do so. If the defendant could have safely retreated but did not do so, you may consider that fact in deciding whether

the defendant honestly and reasonably believed [he/she] needed to use [force/deadly force] in self-defense.*

(2) However,* a person is never required to retreat if attacked in [his/her] own home, nor if the person reasonably believes that an attacker is about to use a deadly weapon, nor if the person is subject to a sudden, fierce, and violent attack.

(3) Further, a person is not required to retreat if he or she

(a) has not or is not engaged in the commission of a crime at the time the [force/deadly force] is used,

(b) has a legal right to be where he or she is at that time, and

[*Select from the following according to whether the defendant used deadly force or nondeadly force:*]

(c) has an honest and reasonable belief that the use of ~~[force/~~ deadly force~~]~~ is necessary to prevent imminent [death/great bodily harm/sexual assault] of [himself/herself] or another person.

or

(c) has an honest and reasonable belief that the use of force is necessary to prevent the imminent unlawful use of force ~~of~~ against [himself/herself] or another person.

Use Note

*Paragraph (1) and "However" should be given only if there is a dispute whether the defendant had a duty to retreat. *See People v Richardson*, 490 Mich 115, 803 NW2d 302 (2011).

Use this instruction when requested where some evidence of self-defense has been introduced or elicited. Where there is evidence that, at the time that the defendant used force or deadly force, he or she was engaged in the commission of some other crime, the Committee on Model Criminal Jury Instructions believes that circumstances of the case may provide the court with a basis to instruct the jury that the defendant does not lose the right to self-defense if the commission of that other offense was not likely to lead to the other person's assaultive behavior. *See People v Townes*, 391 Mich 578, 593; 218 NW2d 136 (1974). The committee expresses no opinion regarding the availability of self-defense where the other offense may lead to assaultive behavior by another.

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PROPOSED

The committee proposes an amendment to M Crim JI 17.25 [Stalking] to correct it in accord with statutory language, to provide definitional language in the instruction for "uncontested contact," and to clarify the element for aggravated stalking. Deletions are in strikethrough, and new language is underlined.

[AMENDED] M Crim JI 17.25
Stalking

(1) [The defendant is charged with/You may consider the lesser offense of] stalking. To establish this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant committed two or more willful, separate, and noncontinuous acts of unconsented contact[†] with (*name complainant*). *Unconsented contact* means that the defendant initiated or continued contact with (*name complainant*) without [his/her] consent and includes [following or appearing within sight of (*name complainant*)/approaching (*name complainant*) in public or on private property/appearing at (*name complainant*)'s workplace or home/entering or remaining on property owned, leased, or occupied by (*name complainant*)/contacting (*name complainant*) by telephone/sending an electronic communication or mail to (*name complainant*)/placing an object on or delivering an object to property owned, leased or occupied by (*name complainant*)].[1]

(3) Second, that the contact would cause a reasonable individual to suffer emotional distress.

(4) Third, that the contact caused [*name complainant*] to suffer emotional distress.[2]

(5) Fourth, that the contact would cause a reasonable individual to feel terrorized, frightened, intimidated, threatened, harassed, or molested.[3]

(6) Fifth, that the contact caused [*name complainant*] to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

[*For aggravated stalking, add the following:*]

(7) Sixth, ~~the stalking~~ at least one act of unconsented contact[4]

[was committed in violation of (a court order/a condition of [parole/probation])]

[was committed in violation of a restraining order of which the defendant had actual notice]

[included the defendant making one or more credible threats[4] against [*name complainant*], a member of (his/her) family, or someone living in (his/her) household]. A credible threat is a threat to kill or physically injure a person made in a manner or context that causes the person hearing or receiving it to reasonably fear for his or her safety or the safety of another person.[5]

~~[was a second or subsequent stalking offense].~~

FROM THE COMMITTEE ON MODEL CRIMINAL JURY INSTRUCTIONS (CONTINUED)

[*Where appropriate under the evidence, add the following:*]

(8) You have heard evidence that the defendant continued to make repeated unconsented contact with [*name complainant*] after [he/she] requested the defendant to discontinue that conduct or some different form of unconsented contact and requested the defendant to refrain from any further unconsented contact. If you believe that evidence, you may, but are not required to, infer that the continued course of conduct caused [*name complainant*] to feel terrorized, frightened, intimidated, threatened, harassed, or molested. Even if you make that inference, remember that the prosecutor still bears the burden of proving all of the elements of the offense beyond a reasonable doubt.

Use Note

1. *Unconsented contact* is defined at MCL 750.411h(1)(e) and is not limited to the forms of conduct described in this jury instruction. The court may read all of the types of contact mentioned in the statute or may select those that apply according to the charge and the evidence, or the court may describe similar conduct it finds is included under the purview of the statute.

2. The second and third elements constitute *harassment* as defined at MCL 750.411h(1)(c).

3. The fourth and fifth elements are part of *stalking* as defined at MCL 750.411h(1)(d).

4. If the basis for aggravated stalking is a prior conviction, do not read this element.

5. *Credible threat* is defined at MCL 750.411i(1)(b). By this definition, a "credible threat" appears to meet the "true threat" standard of *Virginia v Black*, 538 US 343, 358 (2003).

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PROPOSED

The committee proposes adding an alternative to M Crim JI 20.1 [Criminal Sexual Conduct in the First Degree] where the defendant is a woman who caused sexual penetration with a male under unlawful circumstances. The new language is underlined.

[AMENDED] M Crim JI 20.1
Criminal Sexual Conduct in the First Degree

(1) The defendant is charged with the crime of first-degree criminal sexual conduct. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant engaged in a sexual act that involved

[*Choose (a), (b), (c), or (d):*]

(a) entry into [(*name complainant*)/the defendant]'s [genital opening[1]/anal opening] by [(*name complainant*)/the defendant]'s [penis/finger/tongue/(*name object*)]. Any entry, no matter how slight, is enough. It does not matter whether the sexual act was completed or whether semen was ejaculated.

(b) entry into [(*name complainant*)/the defendant]'s mouth by [(*name complainant*)/the defendant]'s penis. Any entry, no matter how slight, is enough. It does not matter whether the sexual act was completed or whether semen was ejaculated.

(c) touching of [(*name complainant*)/the defendant]'s [genital openings[1]/genital organs] with [(*name complainant*)/the defendant]'s mouth or tongue.

(d) entry by [any part of one person's body/some object] into the genital or anal opening[1] of another person's body. Any entry, no matter how slight, is enough. It is alleged in this case that a sexual act was committed by [*state alleged act*]. It does not matter whether the sexual act was completed or whether semen was ejaculated.

(3) [*Follow this instruction with one or more of the nine alternatives, M Crim JI 20.3 to M Crim JI 20.11, as warranted by the evidence.*]

(4) [*Where the defendant is charged under MCL 750.520b(2)(b) with the 25-year mandatory minimum for being 17 years of age or older and penetrating a child under 13 years old, instruct according to M Crim JI 20.30b.*]

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PROPOSED

The committee proposes to add "allowed or caused" language to M Crim JI 20.2 [Criminal Sexual Conduct in the Second Degree] and M Crim JI 20.13 [Criminal Sexual Conduct in the Fourth Degree] to reflect an unpublished Court of Appeals decision, *People v Zernec* (MCOA #353490), interpreting MCL 750.520e. Deletions are in strike-through, and new language is underlined.

[AMENDED] M Crim JI 20.2
Criminal Sexual Conduct in the Second Degree

(1) The defendant is charged with the crime of second-degree criminal sexual conduct. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant intentionally [touched (*name complainant*)'s/made (*name complainant*) touch (his/her)/allowed (*name complainant*) to touch[1] (his/her)/caused (*name complainant*) to touch[1] (his/her)] [genital area/groin/inner thigh/buttock/(or) breast] or the clothing covering that area.

(3) Second, that this was done for sexual purposes or could reasonably be construed as having been done for sexual purposes.

(4) [*Follow this instruction with one or more of the 13 alternatives, M Crim JI 20.3 to M Crim JI 20.11d, as warranted by the evidence. See the table of contents on p. 20-1 for a list of the alternatives.*]

Use Note

1. These alternatives may only be used where "consent" is not a possible defense, e.g., where the victim is under-age or mentally incapable.

[AMENDED] M Crim JI 20.13
Criminal Sexual Conduct in the Fourth Degree

(1) The defendant is charged with the crime of fourth-degree criminal sexual conduct. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant intentionally [touched (*name complainant*)'s/made (*name complainant*) touch (his/her)/allowed (*name complainant*) to touch[1] (his/her)/caused (*name complainant*) to touch[1] (his/her)] [genital area/groin/inner thigh/buttock/(or) breast] or the clothing covering that area.

(3) Second, that this was done for sexual purposes or could reasonably be construed as having been done for sexual purposes.

Use Note

~~Use this instruction where the facts describe an offensive touching.~~

~~Where an offensive touching involving an employee of the Department of Corrections is alleged, an appropriate instruction conforming to MCL 750.520e(1)(c) should be drafted.~~

1. These alternatives may only be used where "consent" is not a possible defense, e.g., where the victim is under-age or mentally incapable.

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PROPOSED

The committee proposes to amend M Crim JI 36.1, 36.3 36.4, 36.4a, and 36.6 [Human Trafficking] to add "coercion" language per a statutory amendment to MCL 750.462a. The new language is underlined. The use notes have not changed so they have not been included.

[AMENDED] M Crim JI 36.1
Obtaining a Person for Forced Labor or Services

(1) The defendant is charged with the crime of obtaining a person for forced labor or services. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant recruited, enticed, harbored, transported, provided, or obtained [*name complainant*] to perform forced labor or services.

(3) Second, that when the defendant recruited, enticed, harbored, transported, provided, or obtained [*name complainant*], the defendant knew that it was for the purpose of having [*name complainant*] perform forced labor or services, whether or not such labor or service was actually provided.

(4) "Forced labor or services" are labor or services obtained or maintained by force, fraud, or coercion.

[*Provide any or all of the following definitions, according to the evidence:*]

(a) Force includes physical violence, restraint, or confinement, or threats of physical violence, restraint, or confinement.

(b) Fraud includes false or deceptive offers of employment or marriage.

(c) Coercion includes [*select any that apply*]:

(i) threats of harm or restraint to any person.

(ii) using a [scheme/plan/pattern] intended to cause someone to think that [psychological harm/physical harm/harm to the person's reputation] would result from failing to perform an act.

(iii) abusing or threatening to abuse the legal system by threatening to have the person [arrested/deported], regardless of whether the person could be [arrested/deported].

(iv) [destroying/concealing/removing/confiscating] a [passport/immigration document/government identification document] from any person, even if the document was fraudulently obtained.

(v) facilitating or controlling access to [*identify controlled substance(s) per MCL 333.7104*] without a legitimate medical purpose.

These are examples of [force/fraud/coercion] and not an exhaustive list.

[*This crime is a 10-year offense that may be increased by aggravating factors. If the prosecution has charged one of those factors, the jury must be instructed under M Crim JI 36.5.*]

[AMENDED] M Crim JI 36.3
Knowingly Subjecting a Person to Forced Labor or Debt Bondage

(1) The defendant is charged with the crime of knowingly subjecting a person to [forced labor or services/debt bondage]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant purposefully recruited, enticed, harbored, transported, provided, or obtained [*name complainant*] by any means.

(3) Second, that when the defendant recruited, enticed, harbored, transported, provided, or obtained [*name complainant*], the defendant knew that [*name complainant*] would be subjected to [perform forced labor or services/debt bondage].

[*Provide appropriate definitions:*]

(4) "Forced labor or services" are labor or services obtained or maintained by force, fraud, or coercion.

[*Provide any or all of the following definitions, according to the evidence:*]

(a) Force includes physical violence, restraint, or confinement, or threats of physical violence, restraint, or confinement.

(b) Fraud includes false or deceptive offers of employment or marriage.

(c) Coercion includes [*select any that apply*]:

(i) threats of harm or restraint to any person.

(ii) using a [scheme/plan/pattern] intended to cause someone to think that [psychological harm/physical harm/harm to the person's reputation] would result from failing to perform an act.

(iii) abusing or threatening to abuse the legal system by threatening to have the person [arrested/deported], regardless of whether the person could be [arrested/deported].

(iv) [destroying/concealing/removing/confiscating] a [passport/immigration document/government identification document] from any person, even if the document was fraudulently obtained.

(v) facilitating or controlling access to [*identify controlled substance(s) per MCL 333.7104*] without a legitimate medical purpose.

These are examples of [force/fraud/coercion] and not an exhaustive list.

(5) "Debt bondage" includes, but is not limited to, a promise by [*name complainant or person who had control over complainant*] that [*name complainant*] would perform services to pay back a debt where the value of the services, or the nature of the services and the time that they are to be performed, is not spelled out or defined, or the value of the services is not applied to reduction of the debt. This is not an exhaustive list of the types of debt bondage.

[*This crime is a 10-year offense that may be increased by aggravating factors. If the prosecution has charged one of those factors, the jury must be instructed under M Crim JI 36.5.*]

[AMENDED] M Crim JI 36.4
Participating in a Forced Labor, Debt Bondage, or Commercial Sex Enterprise for Financial Gain

(1) The defendant is charged with the crime of participating in an enterprise involving forced labor, debt bondage, or commercial sex for financial gain. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant participated in an enterprise that engaged in forced labor or services, debt bondage, or commercial sexual activity.

(3) Second, that the defendant knew that the enterprise was engaged in forced labor or services, debt bondage, or commercial sexual activity.

(4) Third, that the defendant benefited financially or received anything of value from [his/her] participation in the enterprise.

(5) I will now define some of the legal terminology that was used in this instruction.

[*Provide appropriate definitions:*]

(a) An enterprise is an organization for conducting business and can be an individual person, a sole proprietorship, a partnership, a corporation, a limited liability company, a trust, a union, an association, a governmental unit, any other legal entity, or any legal or illegal association of persons.

(b) "Forced labor or services" are labor or services obtained or maintained by force, fraud, or coercion.

[*Provide any or all of the following definitions, according to the evidence:*]

(i) Force includes physical violence, restraint, or confinement, or threats of physical violence, restraint, or confinement.

(ii) Fraud includes false or deceptive offers of employment or marriage.

(iii) Coercion includes [*select any that apply*]:

(A) threats of harm or restraint to any person.

(B) using a [scheme/plan/pattern] intended to cause someone to think that [psychological harm/physical harm/harm to the person's reputation] would result from failing to perform an act.

(C) abusing or threatening to abuse the legal system by threatening to have the person [arrested/deported], regardless of whether the person could be [arrested/deported].

(D) [destroying/concealing/removing/confiscating] a [passport/immigration document/government identification document] from any person, even if the document was fraudulently obtained.

(E) facilitating or controlling access to [*identify controlled substance(s) per MCL 333.7104*] without a legitimate medical purpose.

These are examples of [force/fraud/coercion] and not an exhaustive list.

(c) "Debt bondage" includes, but is not limited to, a promise by [*name complainant or person who had control over complainant*] that [*name complainant*] would perform services to pay back a debt where the value of the services, or the nature of the services and the time that they are to be performed, is not spelled out or defined, or the value of the services is not applied to reduction of the debt. This is not an exhaustive list of the types of debt bondage.

(d) "Commercial sexual activity" means performing acts of sexual penetration or contact, child sexually abusive activity, or a sexually explicit performance.

[*This crime is a 10-year offense that may be increased by aggravating factors. If the prosecution has charged one of those factors, the jury must be instructed under M Crim JI 36.5.*]

[AMENDED] M Crim JI 36.4a
Participating in a Forced Labor or Commercial Sex Enterprise for Financial Gain or for Anything of Value with a Minor

(1) The defendant is charged with the crime of participating in an enterprise involving forced labor or services or commercial sexual activity with a minor for financial gain or for anything of value. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant participated in an enterprise that engaged in forced labor or services or commercial sexual activity involving a person or persons less than 18 years old. It does not matter whether defendant knew the age of the person or persons.

(3) Second, that the defendant knew that the enterprise was engaged in forced labor or services or commercial sexual activity with this person or persons.

(4) Third, that the defendant benefited financially or received anything of value from [his/her] participation in the enterprise.

(5) I will now define some of the legal terminology that was used in this instruction.

[*Provide appropriate definitions:*]

(a) An enterprise is an organization for conducting business and can be an individual person, a sole proprietorship, a partnership, a corporation, a limited liability company, a trust, a union, an association, a governmental unit, any other legal entity, or any legal or illegal association of persons.

(b) "Forced labor or services" are labor or services obtained or maintained by force, fraud, or coercion.

[*Provide any or all of the following definitions, according to the evidence:*]

(i) Force includes physical violence, restraint, or confinement, or threats of physical violence, restraint, or confinement.

(ii) Fraud includes false or deceptive offers of employment or marriage.

(iii) Coercion includes [*select any that apply*]:

(A) threats of harm or restraint to any person.

(B) using a [scheme/plan/pattern] intended to cause someone to think that [psychological harm/physical harm/harm to the person's reputation] would result from failing to perform an act.

(C) abusing or threatening to abuse the legal system by threatening to have the person [arrested/deported], regardless of whether the person could be [arrested/deported].

(D) [destroying/concealing/removing/confiscating] a [passport/immigration document/government identification document] from any person, even if the document was fraudulently obtained.

(E) facilitating or controlling access to [*identify controlled substance(s) per MCL 333.7104*] without a legitimate medical purpose.

These are examples of [force/fraud/coercion] and not an exhaustive list.

(c) "Commercial sexual activity" means performing acts of sexual penetration or contact, child sexually abusive activity, or a sexually explicit performance.

[AMENDED] M Crim JI 36.6
Using Minors for Commercial Sexual Activity or for Forced Labor or Services

(1) The defendant is charged with the crime of engaging a minor for [commercial sexual activity/forced labor or services]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

[*Select (2) according to the charged conduct:*]

(2) First, that the defendant recruited, enticed, harbored, transported, provided, or obtained [*name complainant*] for commercial sexual activity. Commercial sexual activity means performing acts of sexual penetration or contact, child sexually abusive activity, or a sexually explicit performance.

(2) First, that the defendant recruited, enticed, harbored, transported, provided, or obtained [*name complainant*] to perform forced labor or services. "Forced labor or services" are labor or services obtained or maintained by force, fraud, or coercion.

[*Provide any or all of the following definitions, as applicable:*]

(a) Force includes physical violence, restraint, or confinement, or threats of physical violence, restraint, or confinement.

(b) Fraud includes false or deceptive offers of employment or marriage.

(c) Coercion includes [*select any that apply*]:

(i) threats of harm or restraint to any person.

(ii) using a [scheme/plan/pattern] intended to cause someone to think that [psychological harm/physical harm/harm to the person's reputation] would result from failing to perform an act.

(iii) abusing or threatening to abuse the legal system by threatening to have the person [arrested/deported], regardless of whether the person could be [arrested/deported].

(iv) [destroying/concealing/removing/confiscating] a [passport/immigration document/government identification document] from any person, even if the document was fraudulently obtained.

(v) facilitating or controlling access to [*identify controlled substance(s) per MCL 333.7104*] without a legitimate medical purpose.

These are examples of [force/fraud/coercion], and not an exclusive list.

(3) Second, that when the defendant recruited, enticed, harbored, transported, provided, or obtained [*name complainant*] [for commercial sexual purposes/to perform forced labor or services], [*name complainant*] was less than 18 years old, regardless of whether the defendant knew [he/she] was less than 18 years old.

(4) Third, that when the defendant recruited, enticed, harbored, transported, provided, or obtained [*name complainant*], the defendant intended that [*name complainant*] would perform [commercial sexual activity/forced labor or services], whether or not [commercial sexual activity/forced labor or service] was actually provided.

INTEREST RATES FOR MONEY JUDGMENTS

Subsection 6 of Section 6013, and Subsection 2 of Section 6455 of Public Act No. 236 of 1961, as amended, (M.C.L. Sections 600.6013and 600.6455) state the following:

Sec. 6013(6) Except as otherwise provided by subsection (5) and subject to subsection (11), for complaints led on or after January 1,1987, interest on a money judgment recovered in a civil action shall be calculated at 6-month intervals from the date of ling thecomplaint at a rate of interest which is equal to 1% plus the average interest rate paid at auctions of 5-year United States treasurynotes during the 6 months immediately preceding July 1 and January 1, as certied by the state treasurer, and compoundedannually, pursuant to this section.

Sec. 6455 (2) Except as otherwise provided in this subsection, for complaints led on or after January 1, 1987, interest on a moneyjudgment recovered in a civil action shall be calculated from the date of ling the complaint at a rate of interest which is equal to 1%plus the average interest rate paid at auctions of 5-year United States treasury notes during the 6 months immediately precedingJuly 1 and January 1, as certied by the state treasurer, and compounded annually, pursuant to this section.

Pursuant to the above requirements, the State Treasurer of the State of Michigan, hereby certify that 2.458% was the average highyield paid at auctions of 5-year U.S. Treasury Notes during the six months preceding July 1, 2022.

TIME PERIOD	INTEREST RATE	TIME PERIOD	INTEREST RATE
7/1/2022	2.458%	7/1/2004	3.357%
1/1/2022	1.045%	1/1/2004	3.295%
7/1/2021	0.739%	7/1/2003	2.603%
1/1/2021	0.330%	1/1/2003	3.189%
7/1/2020	0.699%	7/1/2002	4.360%
1/1/2020	1.617%	1/1/2002	4.140%
7/1/2019	2.235%	7/1/2001	4.782%
1/1/2019	2.848%	1/1/2001	5.965%
7/1/2018	2.687%	7/1/2000	6.473%
1/1/2018	1.984%	1/1/2000	5.756%
7/1/2017	1.902%	7/1/1999	5.067%
1/1/2017	1.426%	1/1/1999	4.834%
7/1/2016	1.337%	7/1/1998	5.601%
1/1/2016	1.571%	1/1/1998	5.920%
7/1/2015	1.468%	7/1/1997	6.497%
1/1/2015	1.678%	1/1/1997	6.340%
7/1/2014	1.622%	7/1/1996	6.162%
1/1/2014	1.452%	1/1/1996	5.953%
7/1/2013	0.944%	7/1/1995	6.813%
1/1/2013	0.687%	1/1/1995	7.380%
7/1/2012	0.871%	7/1/1994	6.128%
1/1/2012	1.083%	1/1/1994	5.025%
7/1/2011	2.007%	7/1/1993	5.313%
1/1/2011	1.553%	1/1/1993	5.797%
7/1/2010	2.339%	7/1/1992	6.680%
1/1/2010	2.480%	1/1/1992	7.002%
7/1/2009	2.101%	7/1/1991	7.715%
1/1/2009	2.695%	1/1/1991	8.260%
7/1/2008	3.063%	7/1/1990	8.535%
1/1/2008	4.033%	1/1/1990	8.015%
7/1/2007	4.741%	7/1/1989	9.105%
1/1/2007	4.701%	1/1/1989	9.005%
7/1/2006	4.815%	7/1/1988	8.210%
1/1/2006	4.221%	1/1/1988	8.390%
7/1/2005	3.845%	7/1/1987	7.500%
1/1/2005	3.529%	1/1/1987	6.660%

MEMBER ANNOUNCEMENTS

When your office has something to celebrate, let the Michigan legal community know about it with a member announcement in the *Bar Journal* and michbar.org/newsandmoves for one month.

- Announce an office opening, relocation, or acquisition
- Welcome new hires or recognize a promotion
- Celebrate a firm award or anniversary
- Congratulate and thank a retiring colleague

Contact Stacy Ozanich for details
517-346-6315 | sozanich@michbar.org

ORDERS OF DISCIPLINE & DISABILITY

SUSPENSION

L. David Bush, P51870, Berkley, by the Attorney Discipline Board Tri-County Hearing Panel #66. Suspension, two years effective July 14, 2022.[1]

After proceedings conducted pursuant to MCR 9.115, the panel found, by default, that the respondent committed professional misconduct during his representation of clients in two separate medical malpractice actions (counts 1 and 2) and appeared for closing arguments in *In re Bourbeau Minors*, Oakland County Circuit Court Case No. 2015-832568-NA, at a time when his license to practice law was suspended (count 3). The respondent was also alleged to have failed to answer or respond in any way to four separate requests for investigation (count 4).

Based on the respondent's default and the evidence presented at the hearing, the panel found that as to count 1, the respondent neglected a legal matter entrusted to him in violation of MRPC 1.1(c); failed to act with reasonable diligence and promptness in representing a client in violation of MRPC 1.3; failed to keep a client reasonably informed about a matter and comply promptly with reasonable requests for information in violation of MRPC 1.4(a); failed to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in violation of MRPC 1.4(b); failed to take reasonable steps to protect a client's interests upon the termination of a representation in violation of MRPC 1.16(d); knowingly made a false statement of material fact or law to a tribunal in violation of MRPC 3.3(a)(1); knowingly made a false statement of material fact or law to a third person in violation of MRPC 4.1; and engaged in the unauthorized practice of law in violation of MRPC 5.5(a).

As to count 2, the panel found that the respondent neglected a legal matter entrusted to him in violation of MRPC 1.1(c); failed to act with reasonable diligence and promptness in representing a client in violation of MRPC 1.3; failed to keep a client reasonably informed about a matter and comply promptly with reasonable requests for information in violation of MRPC 1.4(a); failed to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in violation of MRPC 1.4(b); and failed

to take reasonable steps to protect a client's interests upon the termination of a representation in violation of MRPC 1.16(d).

As to count 3, the panel found that the respondent engaged in the unauthorized practice of law in violation of MRPC 5.5(a); failed to notify clients and courts of his suspension in violation of MCR 9.119(A) and (B); failed to file a proof of compliance for his suspension in violation of MCR 9.119(C); and failed to cease practicing law after the effective date of his suspension in violation of MCR 9.119(E)(1)-(4).

As to count 4, the panel found that the respondent failed to answer requests for investigation in violation of MCR 9.104(7), 9.113(A), and 9.113(B)(2); and knowingly failed to respond to a disciplinary authority's request for information in violation of MRPC 8.1(a)(2).

The panel also found violations of MCR 9.104(1)-(4) and MRPC 8.4(a)-(c) as charged in each count of the complaint.

The panel ordered that the respondent's license to practice law be suspended for a period of two years. Costs were assessed in the amount of $1,920.97.

1. The respondent has been continuously suspended from the practice of law in Michigan since February 12, 2020, as a result of his failure to pay bar dues to the State Bar of Michigan. The respondent's license to practice law was also suspended for a period of one year in **Grievance Administrator v L. David Bush**, 20-40-GA, effective November 18, 2020.

AUTOMATIC INTERIM SUSPENSION

Scott A. Chappelle, P43635, East Lansing, effective April 25, 2022.

On April 25, 2022, the respondent pleaded guilty to tax evasion in violation of 26 USC § 7201, a felony, in the matter titled *United States of America v Scott Alan Chappelle*, United States District Court — Western District of Michigan, Case No. 1:20-CR-0079-JMB. The respondent's plea was accepted by the court the same day. In accordance with MCR 9.120(B)(1), the respondent's license to practice law in Michigan was automatically suspended on the date of his felony conviction.

Upon the filing of a certified judgment of conviction, this matter will be assigned to a hearing panel for further proceedings. The interim suspension will remain in effect until the effective date of an order filed by a hearing panel.

REINSTATEMENT (WITH CONDITIONS)

Christopher S. Easthope, P53097, Saline, by the Attorney Discipline Board. Reinstated effective Aug. 4, 2022.

The petitioner's license to practice law in Michigan was suspended for 180 days effective Oct. 16, 2021. On March 3, 2022, petitioner filed a petition for reinstatement pursuant to MCR 9.123 and MCR 9.124, which was assigned to Washtenaw County Hearing Panel #3. After a hearing on the petition, the panel concluded that the petitioner satisfactorily established his eligibility for reinstatement and on July 28, 2022, issued an Order of Eligibility for Reinstatement with Conditions that indicated that an order of reinstatement would be issued upon receipt of written verification that the petitioner's bar dues were paid. On Aug. 2, 2022, the board received written confirmation that the petitioner paid his bar dues in

ORDERS OF DISCIPLINE & DISABILITY (CONTINUED)

accordance with rules 2 and 3 of the Supreme Court Rules concerning the State Bar of Michigan.

The board issued an Order of Reinstatement with Conditions reinstating the petitioner to the practice of law in Michigan, effective Aug. 4, 2022.

AUTOMATIC INTERIM SUSPENSION

Derrick N. Okonmah, P68221, Bloomfield Hills, effective June 21, 2022.

On June 21, 2022, the respondent pleaded guilty to operating while intoxicated, 3rd offense, a felony, in violation of MCL 257.6256D; and operating while license suspended, revoked, or denied second or subsequent offense, a misdemeanor, in violation of MCL 257.904(1)(c), in the matter titled *People of the State of Michigan v Derrick Nnabuife Okonmah*, Oakland County Circuit Court Case No. 2021-276708-FH. The respondent's plea was accepted by the court the same day. In accordance with MCR 9.120(B)(1), the respondent's license to practice law in Michigan was automatically suspended on the date of his felony conviction.

Upon the filing of a certified judgment of conviction, this matter will be assigned to a hearing panel for further proceedings. The interim suspension will remain in effect until the effective date of an order filed by a hearing panel.

DISBARMENT (BY CONSENT)

Eric J. Smith, P46186, Macomb, by the Attorney Discipline Board Tri-County Hearing Panel #103. Disbarment effective June 15, 2022.[1]

The respondent and the grievance administrator filed a Revised Stipulation for Consent Order of Disbarment which was approved by the Attorney Grievance Commission and accepted by the hearing

panel. The stipulation contained the respondent's admission that he was convicted of obstruction of justice, a felony, in violation of 18 § USC 1512(b)(1), in *United States of America v Eric J. Smith*, United States District Court, Eastern District of Michigan Case No. 2:20-cr-20413-LVP. In accordance with MCR 9.120(B)(1), the respondent's license to practice law in Michigan was automatically suspended effective Feb. 16, 2022, the date of his felony conviction.

Based on the respondent's conviction, admissions, and the parties' stipulation, the panel found that the respondent committed professional misconduct when he engaged in conduct that violated a criminal law of a state or of the United States, an ordinance, or tribal law pursuant to MCR 2.615 in violation of MCR 9.104(5).

In accordance with the stipulation of the parties, the hearing panel ordered that the respondent be disbarred from the practice of law in Michigan. Total costs were assessed in the amount of $1,051.75.

1. The respondent has been continuously suspended from the practice of law in Michigan since Feb. 16, 2022. Please see Notice of Automatic Interim Suspension issued March 11, 2022.

DISBARMENT AND RESTITUTION

John H. Underhill, P42326, Adrian, by the Attorney Discipline Board Livingston County Hearing Panel #1. Disbarment effective July 27, 2022.[1]

After proceedings conducted pursuant to MCR 9.115, the panel found, by default, that the respondent committed professional misconduct, as charged in a five-count formal complaint, in his representation of three separate clients in their various legal matters; during dealings with a construction contractor; and by failing to respond to a subpoena from the Attorney Grievance Commission.

Based on the respondent's default and the evidence presented at the hearing, the panel found that the respondent neglected a legal matter in violation of MRPC 1.1(c) (counts 1 and 3); failed to act with reasonable diligence and promptness in violation of MRPC 1.3 (counts 1 and 3); failed to keep a client reasonably informed about the status of a matter and comply promptly with reasonable requests for information in violation of MRPC 1.4(a) (counts 1 and 3); failed to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in violation of MRPC 1.4(b) (count 1); entered into an agreement for, charged, or collected an illegal fee or clearly excessive fee in violation of MRPC 1.5(a) (count 3); failed to maintain a normal client-lawyer relationship with a client when the client's ability to make decisions was impaired in violation of MRPC 1.14(a) (count 5); failed to take reasonable steps upon terminating a representation to refund an unearned fee and to protect the client's interest in violation of MRPC 1.16(d) (counts 1 and 3); knowingly disobeyed an obligation under the rules of the tribunal in violation of MRPC 3.4(c) (count 4); failed to respond to a lawful demand for information from a disciplinary authority in violation of MRPC 8.1(a)(2) (count 2); engaged in conduct that involved dishonesty, fraud, deceit, misrepresentation, or violation of the criminal law where such conduct reflected adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in violation of MRPC 8.4(b) (counts 1, 4, and 5); engaged in conduct that violates a criminal law of a state or of the United States in violation of MCR 9.104(5) (counts 1 and 4); committed forgery in violation of MCL 750.248(1) (count 4); and committed larceny in violation of MCL 750.356(1)(a) (count 4). The respondent was also found to have violated MCR 9.104(1)-(4) and MRPC 8.4(a) and (c).

ORDERS OF DISCIPLINE & DISABILITY (CONTINUED)

The panel ordered that the respondent be disbarred effective July 27, 2022, and pay restitution in the total amount of $15,678. Costs were assessed in the amount of $2,140.06.

1. The respondent's license to practice law in Michigan was previously suspended on an interim basis effective October 28, 2021. The interim suspension was vacated and the respondent's license to practice law in Michigan was reinstated effective March 1, 2022. See Notice Vacating Interim Suspension and Notice of Reinstatement, issued March 4, 2022.

REPRIMAND (WITH CONDITIONS)

Paul G. Valentino, P34239, Bloomfield Hills, by the Attorney Discipline Board Tri-County Hearing Panel #55. Reprimand effective June 10, 2022.

After proceedings conducted pursuant to MCR 9.115, the hearing panel found that while representing an individual in a first-party automobile accident claim, the respondent failed to have an executed contingent fee agreement in writing and provided to the client; charged and attempted to collect an illegal fee; and represented a client where the representation was materially limited by the respondent's responsibilities to another client.

The panel specifically found that the respondent entered into an agreement for, charged, or collected an illegal fee in violation of MRPC 1.5(a); failed to have an executed contingent fee agreement in writing and provided to the client in violation of MRPC 1.5(c) and MCR 8.121(F); and represented a client where the representation may be materially limited by the lawyer's responsibilities to another client, or to a third person, or by the lawyer's own interest, in violation of MRPC 1.7(b).

The panel ordered that the respondent be reprimanded and comply with conditions relevant to the established misconduct. Total costs were assessed in the amount of $3,138.15.

SUSPENSION

Kelly D. Watson, P58080, Redford, by the Attorney Discipline Board Tri-County Hearing Panel #11. Suspension, 180 days effective July 6, 2022.

The respondent was convicted of operating while intoxicated, a misdemeanor, in violation of MCL 257.6251(B), in *People of the City of Livonia v Kelly David Watson*, 16th District Court Case No. 20L01579OD. Based on the respondent's conviction, the panel found that he engaged in conduct that violated a criminal law of a state or of the United States, an ordinance, or tribal law pursuant to MCR 2.615, in violation of MCR 9.104(5).

The panel ordered that the respondent's license to practice law in Michigan be suspended for 180 days. Costs were assessed in the amount of $1,815.96.

REPRIMAND (BY CONSENT)

Sean C. Ziadeh, P63872, Farmington, by the Attorney Discipline Board Tri-County Hearing Panel #51. Reprimand effective June 15, 2022.

The respondent and the grievance administrator filed a Stipulation for Consent Order of Discipline which was approved by the Attorney Grievance Commission and accepted by the hearing panel. The stipulation contained the respondent's admission that he was convicted by guilty plea of operating while intoxicated, a misdemeanor, in violation of MCL 257.6251-A in *People of the State of Michigan v Sean Christopher Ziadeh*, 47th District Court Case No. 20H72828SD.

Based on the respondent's conviction, admissions, and the parties' stipulation, the panel found that the respondent committed professional misconduct when he engaged in conduct that violated a criminal law of a state or of the United States, an ordinance, or tribal law pursuant to MCR 2.615 in violation of MCR 9.104(5).

In accordance with the stipulation of the parties, the hearing panel ordered that the respondent be reprimanded. Costs were assessed in the amount of $750.

DUTY TO REPORT AN ATTORNEY'S CRIMINAL CONVICTION

All Michigan attorneys are reminded of the reporting requirements of **MCR.9120(A)** when a lawyer is convicted of a crime

WHAT TO REPORT:
A lawyer's conviction of any crime, including misdemeanors. A conviction occurs upon the return of a verdict of guilty or upon the acceptance of a plea of guilty or no contest.

WHO MUST REPORT:
Notice must be given by all of the following:
1. The lawyer who was convicted;
2. The defense attorney who represented the lawyer; and
3. The prosecutor or other authority

WHEN TO REPORT:
Notice must be given by the lawyer, defense attorney, and prosecutor within 14 days after the conviction.

WHERE TO REPORT:
Written notice of a lawyer's conviction must be given to **both**:

Grievance Administrator
Attorney Grievance Commission
PNC Center
755 W. Big Beaver Road, Suite 2100
Troy, MI 48084

Attorney Discipline Board
333 W. Fort St., Suite 1700
Detroit, MI 48226

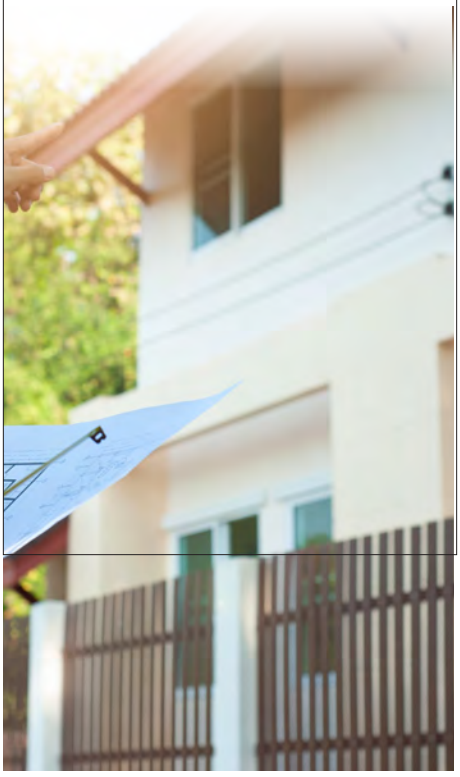
RECENTLY RELEASED

MICHIGAN LAND TITLE STANDARDS

6TH EDITION
8TH SUPPLEMENT (2022)

The Eighth Supplement (2022) to the 6th Edition of the Michigan Land Title Standards prepared and published by the Land Title Standards Committee of the Real Property Law Section is now available for purchase.

Still need the 6th edition of the Michigan Land Title Standards and the previous supplements? They are also available for purchase.



NOTICE OF HEARINGS ON PETITIONS FOR REINSTATEMENT

State of Michigan Attorney Discipline Board

In the Matter of the Reinstatement Petition of Jason P. Ronning, P64779, ADB Case No. 22-32-RP

Petitioner

Notice is given that Jason P. Ronning (P64779) has filed a petition in the Michigan Supreme Court, the Attorney Discipline Board, and the Attorney Grievance Commission seeking reinstatement as a member of the State Bar and restoration of his license to practice law in accordance with MCR 9.124(A). *In the Matter of the Reinstatement Petition of Jason P. Ronning (P64779)*, ADB Case No. 22-32-RP.

Effective Sept. 15, 2017, the petitioner was reprimanded for misdemeanor welfare fraud, neglect, delay, failure to communicate, failure to timely refund an unearned fee, and failure to answer a request for investigation. The hearing panel ordered conditions to the reprimand including restitution in the amount of $2,500 and contacting Lawyers and Judges Assistance Program (LJAP) for an evaluation. The panel further ordered that if the petitioner failed to timely satisfy the terms of the conditions, the hearing panel would issue an order suspending his license to practice law for 120 days.

Effective Dec. 28, 2017, the petitioner was suspended for 120 days for his failure to comply with the conditions of the Sept. 15, 2017, reprimand.

Effective June 1, 2018, the petitioner was suspended for 180 days for neglect, delay, failure to communicate, failure to timely refund an unearned fee, and failure to answer a request for investigation. The suspension was conditioned on restitution in the amount of $1,000.

Effective Aug. 15, 2019, the petitioner was suspended for 30 months for practicing while suspended, failing to abide by a court order requiring him to pay a money judgment against him, and failing to timely respond to several requests for investigation. The hearing panel also found that the petitioner engaged in neglect, delay, failure to communicate, failure to timely refund an unearned fee, and knowingly disobeying an obligation under the rules of a tribunal. The petitioner was also ordered to pay restitution in the amount of $10,000.

Effective Oct. 9, 2020, the petitioner was suspended for one year for failing to advise a client and the court that he was suspended, failing to advise his client that he would not be appearing on his behalf at a hearing, failing to refund unearned fees, and failing to answer a request for investigation. The petitioner was also ordered to pay restitution in the amount of $1,500.

The Attorney Discipline Board has assigned the reinstatement petition to Muskegon County Hearing Panel #2. A hearing is scheduled for Monday, Aug. 29, 2022, commencing at the office of the hearing panel chairperson, Anthony J. Kolenic, Jr., 700 Terrace Pointe Rd., Ste. 350, Muskegon, MI 49440.

In the interest of maintaining the high standards imposed upon the legal profession as conditions for the privilege to practice law in this state and of protecting the public, the judiciary, and the legal profession against conduct contrary to such standards, the petitioner will be required to establish his eligibility for reinstatement by clear and convincing evidence.

Any interested person may appear at the hearing and request to be heard in support of or in opposition to the petition for reinstatement.

Any person having information bearing on the petitioner's eligibility for reinstatement should contact:

Emily A. Downey, Senior Associate Counsel
Attorney Grievance Commission
755 W. Big Beaver Road, Suite 2100
Troy, MI 48084
(313) 961-6585
eadowney@agcmi.com

Requirements of the Petitioner

The petitioner is required to establish by clear and convincing evidence the following:

1. He desires in good faith to be restored to the privilege to practice law in this state;

2. The term of the suspension or revocation of his license, whichever is applicable, has elapsed;

3. He has not practiced or attempted to practice law contrary to the requirement of his suspension or revocation;

4. He has complied fully with the terms of the order of discipline;

5. His conduct since the order of discipline has been exemplary and above reproach;

6. He has a proper understanding of and attitude toward the standards that are imposed on members of the Bar and will conduct himself in conformity with those standards;

7. He can safely be recommended to the public, the courts, and the legal profession as a person fit to be consulted by others and to represent them and otherwise act in matters of trust and confidence and, in general, to aid in the administration of justice as a member of the Bar and as an officer of the court;

8. That if he has been out of the practice of law for three years or more, he has been recertified by the Board of Law Examiners; and

9. He has reimbursed or has agreed to reimburse the Client Protection Fund any money paid from the fund as a result of his conduct. Failure to fully reimburse as agreed is grounds for revocation of a reinstatement.

State of Michigan Attorney Discipline Board

In the Matter of the Reinstatement Petition of David L. Wisz, P55981, ADB Case No. 22-33-RP

Petitioner

Notice is given that David L. Wisz (P55981) has filed a petition in the Michigan Supreme Court, the Attorney Discipline Board, and the Attorney Grievance Commission seeking reinstatement as a member of the State Bar and restoration of his license to practice law in accordance with MCR 9.124.

Effective Oct. 1, 2021, the petitioner was suspended for 180 days by consent in *Grievance Administrator v David L. Wisz*, 20-79-GA. The hearing panel found, by stipulation of the parties, that the petitioner committed acts of professional misconduct. Specifically, the petitioner knowingly disobeyed obligations under the rules of a tribunal in violation of MRPC 3.4(c) (counts 2 and 3); engaged in conduct involving dishonesty, fraud, deceit, misrepresentation, or violation of the criminal law where such conduct reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in violation of MRPC 8.4(b) (counts 1-3); engaged in conduct that violates a criminal law of a state or of the United States, an ordinance, or tribunal law pursuant to MCR 2.615, specifically MCL 750.248 (making, altering, forging, or counterfeiting a public record), MCL 750.249 (uttering and publishing a forged, false, altered, or counterfeit record), MCL 750.356 (larceny), MCL 750.539c (eavesdropping upon private conversation), and MCL 750.539d (installation, placement, or use of a device for observing, recording, transmitting, photographing, or eavesdropping in a private place) in violation of MCR 9.104(5) (counts 1-2); engaged in conduct that is prejudicial to the administration of justice in violation of MRPC 8.4(c) and MCR 9.104(1) (counts 1-3); engaged in conduct that exposes the legal profession or the courts to obloquy, contempt, censure, or reproach in violation of MCR 9.104(2) (counts 1-3); and engaged in conduct that is contrary to justice, ethics, honesty, or good morals in violation of MCR 9.104(3) (Counts 1-3).

The Attorney Discipline Board has assigned the reinstatement petition to Tri-County Hearing Panel #63. A virtual hearing is scheduled for Wednesday, Sept. 14, 2022, commencing at 9:30 a.m. via Zoom.

In the interest of maintaining the high standards imposed upon the legal profession as conditions for the privilege to practice law in this state and of protecting the public, the judiciary, and the legal profession against conduct contrary to such standards, the petitioner will be required to establish his eligibility for reinstatement by clear and convincing evidence.

Any interested person may appear at the hearing and request to be heard in support of or in opposition to the petition for reinstatement.

Any person having information bearing on the petitioner's eligibility for reinstatement should contact:

Sarah C. Lindsey, General Counsel
Attorney Grievance Commission
755 W. Big Beaver Road, Suite 2100
Troy, MI 48084
313-961-6585
sclindsey@agcmi.com

Requirements of the Petitioner

The petitioner is required to establish by clear and convincing evidence the following:

1. He desires in good faith to be restored to the privilege to practice law in this state;

2. The term of the suspension or revocation of his license, whichever is applicable, has elapsed;

3. He has not practiced or attempted to practice law contrary to the requirement of his suspension or revocation;

4. He has complied fully with the terms of the order of discipline;

5. His conduct since the order of discipline has been exemplary and above reproach;

6. He has a proper understanding of and attitude toward the standards that are imposed on members of the Bar and will conduct himself in conformity with those standards;

7. He can safely be recommended to the public, the courts, and the legal profession as a person fit to be consulted by others and to represent them and otherwise act in matters of trust and confidence and, in general, to aid in the administration of justice as a member of the Bar and as an officer of the court;

8. That if he has been out of the practice of law for three years or more, he has been recertified by the Board of Law Examiners; and

9. He has reimbursed or has agreed to reimburse the Client Protection Fund any money paid from the fund as a result of his conduct. Failure to fully reimburse as agreed is grounds for revocation of a reinstatement.

FROM THE MICHIGAN SUPREME COURT

ADM File No. 2020-15
Amendment of Rule 2 and Addition of Rule 21 of the Rules Concerning the State Bar of Michigan and Amendment of Rule 9.119 and Addition of Subchapter 9.300 of the Michigan Court Rules

To read ADM File No. 2020-15, dated June 15, 2022, visit http://courts.michigan.gov/courts/michigansupremecourt and click "Administrative Matters & Court Rules" and "Proposed & Recently Adopted Orders on Admin Matters."

ADM File No. 2021-26
ADM File No. 2021-42
Adoption of Administrative Order No. 2022-3 Increase in Attorney Dues for the State Bar of Michigan Operations and the Attorney Discipline System

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, Administrative Order No. 2022-3 is adopted, effective October 1, 2022.

Administrative Order No. 2022-3 — Increase in Attorney Dues for State Bar of Michigan Operations and the Attorney Discipline System

Under Rule 4 of the Rules Concerning the State Bar of Michigan, dues for active members of the State Bar of Michigan are "to be set by the Supreme Court to fund: (1) the Attorney Grievance Commission and the Attorney Discipline Board, (2) the client security fund administered by the State Bar, and (3) other State Bar expenses." The State Bar of Michigan Representative Assembly and the Attorney Discipline System (comprising the Attorney Grievance Commission and the Attorney Discipline Board) have submitted requests for dues increases for the fiscal year beginning October 1, 2022.

In light of the fact that the State Bar has not had a dues increase since 2003, and to continue the valuable services and resources the Bar provides for its members, the Court hereby establishes the State Bar portion of annual bar dues at $260, an increase of $80. In addition, the Court establishes the ADS portion of annual bar dues at $140, an increase of $20. Dues for the client protection fund remain at the level of $15 per year.

This change will be reflected in the dues notice for the 2022-23 fiscal year that is distributed to all bar members under Rule 4 of the Rules Concerning the State Bar.

Staff Comment: This administrative order increases the State Bar's dues for most members by $100 for a total of $415 per year.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

WELCH, J. (*concurring*). I write to explain my reasons for supporting the State Bar of Michigan (SBM) dues increase approved by this Court. While Justice VIVIANO's statement posits that the lack of a dues increase for 18 years supports the notion of a more gradual increase, that result would punish the SBM for being an excellent steward of its resources. I suspect it is a rarity that a membership organization has maintained the same dues level for 18 years. The SBM provides excellent resources for its members. These include free access to online research, an ethics hotline, a lawyer referral service, and the Lawyers & Judges Assistance Program. The SBM is continually exploring new offerings to benefit its membership and the public. And, like all organizations, the SBM is affected by inflationary pressure and increased overall costs to provide necessary services to its member attorneys. Although Justice VIVIANO suggests that today's dues increase will be burdensome for solo practitioners and attorneys at small firms, many solo and small-firm attorneys testified during our public hearing about the benefit the SBM provides them, making repeated reference to the online journal, ethics hotline, and the lawyer referral program. While larger firms have in-house resources to support their attorneys, solo attorneys and small firms can rely upon the SBM to assist them with ethics concerns. The SBM has historically used a long-term budgeting process. In keeping with this practice, the SBM projects that this increase will allow it to sustain current programming and plan for future programming through at least fiscal year 2030-2031. It also bears noting that this dues increase will not bring Michigan out of step with other state bar dues rates. According to data from the American Bar Association's 2021 State and Local Bar Benchmarks Survey, Michigan was ranked thirty-first among the 50 states and Washington, D.C., for licensing costs. This dues increase would bring Michigan to the twenty-first slot, still within the middle tier nationwide, with this ranking expected to fall as other states raise their own bar dues. For these reasons, I join the majority in supporting the approved increase in dues.

ZAHRA, J. (*concurring in part and dissenting in part*).

I agree with the $20 increase in the portion of bar dues dedicated to the Attorney Discipline System, but I do not believe that the Court

should increase the portion of the dues dedicated to the State Bar of Michigan by $80 at this time. Given the current state of the economy, including the high inflation rates, I would increase the State Bar's dues for the 2022-2023 fiscal year by only $50, which is the amount required for it to maintain its existent operational expenses. I would subsequently increase the State Bar's dues by $10 for each of the next three years, reaching the requested $80 dues increase by the 2025-2026 fiscal year. This more gradual increase in dues should be sufficient to adequately fund the State Bar, while partially easing the sting of the significant dues increase for its members.

VIVIANO, J. (*concurring in part and dissenting in part*).

The Court today increases the annual bar dues that Michigan attorneys must pay by $100, a 32% increase. I agree with the $20 increase dedicated to the Attorney Discipline System, but I believe the $80 increase for the portion of dues dedicated to the State Bar of Michigan (SBM) is too high. Because bar dues have not been increased for many years, I believe a modest increase in bar dues is appropriate. But I would not impose such a dramatic increase in the current economic climate, when historically high inflation rates are affecting every household and business.[1] The increase will be particularly burdensome on solo practitioners and other attorneys who pay their own bar dues — as opposed to those who are fortunate enough to have their bar dues paid by their employers.[2] The SBM performs many important functions, some of which are mandatory (i.e., required by statute or court rule) and some of which are discretionary. It undoubtedly needs sufficient funding to perform the tasks assigned to it. But I would require it to do more belt-tightening before increasing its dues by the full amount it has requested.

1. See Smialek, **Consumer Prices Are Still Climbing Rapidly**, New York Times (May 11, 2022), <https://www.nytimes.com/2022/05/11/business/economy/april-2022-cpi.html> (accessed June 1, 2022) [https://perma.cc/D58U-QVL6].

2. The number of solo practitioners and firms with limited resources is not insignificant. As of 2021, just over 32% of active SBM members who reside in Michigan were either solo practitioners or working in a small firm (defined as 2 to 10 attorneys). State Bar of Michigan, **State & County Demographics: 2021-2022**, p 8 <https://www.michbar.org/file/opinions/statewidedemographics2021.pdf> (accessed May 27, 2022).

ADM File No. 2021-07
Addition of Rule 1.19 of the Michigan Rules of Professional Conduct and Official Comment

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, new Rule 1.19 of the Michigan Rules of Professional Conduct and its Official Comment are adopted, effective September 1, 2022.

Rule 1.19. Lawyer-Client Representation Agreements: Arbitration Provisions

A lawyer shall not enter into an agreement for legal services with a client requiring that any dispute between the lawyer and the client be subject to arbitration unless the client provides informed consent in writing to the arbitration provision, which is based on being

(a) reasonably informed in writing regarding the scope and the advantages and disadvantages of the arbitration provision, or

(b) independently represented in making the agreement.

Official Comment:

MRPC 1.19 is designed to ensure that a client entering into an arbitration agreement with a lawyer has sufficient information to make an informed decision or is independently represented by counsel in making the agreement. This paragraph applies to agreements entered into at the onset of an attorney-client relationship as well as to agreements entered into during the course of the attorney-client relationship.

In order to ensure that client consent to an arbitration provision is informed consent, at a minimum the agreement should advise the client of the practical advantages and disadvantages of arbitration. Inclusion of the following information is presumed to be sufficient to enable a client to give informed consent:

(1) By agreeing to arbitration, the client is

(a) waiving the right to a jury trial,

(b) potentially waiving the right to take discovery to the same extent as is available in a case litigated in a court,

(c) waiving or limiting the right to appeal the result of the arbitration proceeding to specific circumstances established by law, and

(d) agreeing to be financially responsible for at least a share of the arbitrator's compensation and the administrative fees associated with the arbitration;

(2) whether the agreement to arbitrate includes arbitration of legal malpractice claims against the lawyer;

(3) identification of the organization or person(s) that will administer the arbitration;

(4) if the client declines to agree to arbitration at the onset of the attorney-client relationship, there is no prohibition against the lawyer and the client agreeing to arbitrate the matter at a later date;

(5) arbitration may be conducted as a private proceeding, unlike litigation in a court;

(6) the parties can select an arbitrator who is experienced in the subject matter of the dispute;

FROM THE MICHIGAN SUPREME COURT (CONTINUED)

(7) depending on the circumstances, arbitration can be more efficient, expeditious and inexpensive than litigation in a court; and

(8) the client's ability to report unethical conduct by the lawyer is not restricted.

Staff Comment: The addition of new MRPC 1.19 and its Official Comment clarify that a lawyer may only include an arbitration provision in a lawyer-client representation agreement if the client provides informed consent in writing to the provision after being reasonably informed about the scope, advantages, and disadvantages of the provision, or being independently represented.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

VIVIANO, J. (*dissenting*). The majority today adopts MRPC 1.19, which establishes that an attorney-client agreement cannot contain an arbitration clause unless the client is either "reasonably informed" about the provision or is "independently represented in making the agreement." The rule thus tips the scale against arbitration by placing procedural hurdles to entering these agreements. I have no doubt that the rule represents a well-intentioned effort to protect clients. But good intentions do not justify needless, ineffective, and potentially deleterious rules. I believe the present rule is all of these.

Today's rule change is a classic solution in search of a problem: no evidence has been produced that arbitration agreements between lawyers and clients in Michigan are currently a problem.[1] Even if such a problem did exist, I do not believe this new requirement would be effective in solving it. To be sure, we must be concerned with a lawyer's asymmetrical information advantage over a client, who often lacks the training and knowledge to fully understand legal matters. See Griffith, *Ethical Rules and Collective Action: An Economic Analysis of Legal Ethics*, 63 U Pitt L Rev 347, 365-366 (2002). But informed-consent laws such as the one here are often poor tools for ensuring that the intended beneficiary of the additional information makes better decisions; in fact such rules might lead to worse outcomes for the beneficiary.[2] Even when disclosures are potentially helpful, their form and content must be carefully crafted. See Sunstein, *Nudges.gov: Behaviorally Informed Regulation*, in The Oxford Handbook of Behavioral Economics and the Law (New York: Oxford University Press, 2014), p 729. The rule today does nothing to ensure that the disclosures are produced in a comprehensible and useful fashion.

And, lastly, I fear the new rule could be more harmful than helpful for clients. Paying yet another lawyer to review the agreement does not bode much better for the client. What is the client to do if that additional lawyer, too, has an arbitration clause — hire a third lawyer? The probable result of the new rule will not be better-informed clients — more likely, it will be clients who come to court seeking to avoid arbitration by capitalizing on the new rule's vague language. What does it mean for the client to be "reasonably informed"? What are the "advantages" or "disadvantages" of an arbitration provision?

Courts and ethics bodies will be busy deciphering these vague standards, without any discernable benefit to the client, who will now be dealing with (and funding) more extensive and time-consuming satellite litigation.

One potential source of litigation will be whether this rule is enforceable at all. Michigan's Uniform Arbitration Act, MCL 691.1686(1), provides that arbitration agreements are "valid, enforceable, and irrevocable except on a ground that exists at law or in equity for the revocation of a contract," and the Federal Arbitration Act (FAA), 9 USC 2, echoes this provision almost verbatim. This "establishes an equal-treatment principle: A court may invalidate an arbitration agreement based on 'generally applicable contract defenses,' but not on legal rules that 'apply only to arbitration or that derive their meaning from the fact that an agreement to arbitrate is at issue[.]'" *Kindred Nursing Ctrs Ltd Partnership v Clark*, 581 US ___, ___; 137 S Ct 1421, 1426 (2017) (citation omitted). Accordingly, the FAA "preempts any state rule that discriminates on its face against arbitration" or that "disfavor[s]" such agreements. *Id.* An argument could be made that the new rule violates the statute by creating a potential defense unique to arbitration agreements when the client was not "reasonably informed" or did not have independent representation. Cf. *In re Mardigian Estate*, 502 Mich 154, 199 (2018) (MCCORMACK, J., opinion for reversal) ("[W]e have endorsed the view that it is nonsensical for courts to uphold unethical fee agreements when those agreements will subject the attorney to discipline for violating our professional rules."); but see *Delaney v Dickey*, 244 NJ 466, 495-496 (2020) (holding that an informed-consent requirement for attorney-client arbitration agreements did not violate the FAA or the state arbitration statute); *Snow v Bernstein, Shur, Sawyer & Nelson, PA*, 176 A3d 729 (Me, 2017) (same). Regardless of whether the argument prevails, it will certainly produce litigation, again with little benefit to the client.

The rule adopted today thus promises few benefits and many costs, all to address a nonissue. I therefore would decline to adopt the rule and instead would allow attorneys and their clients to freely enter arbitration agreements without any special requirements. The Court of Appeals has upheld the enforceability of such agreements, and I would not put these decisions in doubt by creating a vague and unnecessary rule of professional conduct. See *Tinsley v Yatooma*, 333 Mich App 257, 264 (2020); *Watts v Polaczyk*, 242 Mich App 600, 604-606 (2000). For these reasons, I dissent.

ZAHRA, J., joins the statement of VIVIANO, J.

1. Although we received comments containing generalized statements about clients' unfamiliarity with arbitration agreements, none of the comments identified any particular instances of this confusion or resulting problems for clients.

2. See generally Ben-Shahar & Schneider, **More Than You Wanted to Know: The Failure of Mandated Disclosure** (Princeton: Princeton University Press, 2014), pp 43-47 (noting research showing that information-disclosure requirements across subjects are ineffective); Nahmias, **The Limitations of Information: Rethinking Soft Paternalistic Interventions in Copyright Law**, 37 Cardozo Arts & Ent L J 373, 376, 392-407 (2019) (arguing that disclosure requirements often prove ineffective and sometimes even harmful); Klick & Mitchell, **Government Regulation of Irrationality: Moral and Cognitive Hazards**, 90 Minn L Rev 1620, 1636 (2006) (arguing that ex ante paternalistic measures like disclosure requirements "reduce[] the incentive to search for information, carefully evaluate decision options, or develop good decision-making strategies").

ADM File No. 2022-09
Proposed Amendment of Rule 3.703 of the Michigan Court Rules

On order of the Court, this is to advise that the Court is considering an amendment of Rule 3.703 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for public hearing are posted on the Public Administrative Hearings page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Rule 3.703 Commencing a Personal Protection Action.

(A) Filing. A personal protection action is an independent action commenced by filing a petition and submitting a proposed order with a court. The proposed order shall be prepared on a form approved by the State Court Administrative Office. The petitioner shall complete in the proposed order only the case caption and the fields with identifying information, including protected personal identifying information, that are required for LEIN entry. The personal identifying information form required by MCR 1.109(D)(9)(b)(iii) shall not be filed under this rule. There are no fees for filing a personal protection action and no summons is issued. A personal protection action may not be commenced by filing a motion in an existing case or by joining a claim to an action.

(B)-(G) [Unchanged.]

Staff Comment: The proposed amendment of MCR 3.703 is necessary for design and implementation of the statewide electronic-filing system, will provide the court with necessary PPII in an appropriate format, and will reduce workload preparing personal protection orders. This particular amendment aligns with the Court's recent amendment of MCR 1.109(D)(9)(b)(iii), allowing proposed orders submitted to the court to contain protected personal identifying information (PPII), which the courts will continue to protect as if prepared or issued by the court under MCR 8.119(H)(5).

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the secretary of the State Bar and to the state court administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by October 1, 2022 by clicking on the "Comment on this Proposal" link under this proposal on the Court's Proposed & Adopted Orders on Administrative Matters page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2022-09. Your comments and the comments of others will be posted under the chapter affected by this proposal.

ADM File No. 2021-29
Proposed Amendment of Rule 6.201 of the Michigan Court Rules

On order of the Court, this is to advise that the Court is considering an amendment of Rule 6.201 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the Public Administrative Hearings page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Rule 6.201 Discovery

(A) [Unchanged.]

(B) Discovery of Information Known to the Prosecuting Attorney. Upon request, the prosecuting attorney must provide each defendant:

(1) [Unchanged.]

(2) any police report and interrogation records concerning the case, except so much of a report as concerns a continuing

FROM THE MICHIGAN SUPREME COURT (CONTINUED)

investigation or contains the address, telephone or cell phone number, or any personal identifying information protected by MCR 1.109(9)(a), which may be redacted;

(3)-(5) [Unchanged.]

(C)-(K) [Unchanged.]

Staff Comment: The proposed amendment of MCR 6.201 would require redaction of certain information contained in a police report or interrogation record before providing it to the defendant.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the secretary of the State Bar and to the state court administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by October 1, 2022 by clicking on the "Comment on this Proposal" link under this proposal on the Court's Proposed & Adopted Orders on Administrative Matters page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2021-29. Your comments and the comments of others will be posted under the chapter affected by this proposal.

ADM File No. 2021-48
Proposed Amendment of Rule 6.502 of the Michigan Court Rules

On order of the Court, this is to advise that the Court is considering an amendment of Rule 6.502 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the Public Administrative Hearings page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Rule 6.502 Motion for Relief from Judgment

(A)-(F) [Unchanged.]

(G) Successive Motions.

(1) [Unchanged.]

(2) A defendant may file a second or subsequent motion based on any of the following:

(a) ~~based on~~ a retroactive change in law that occurred after the first motion for relief from judgment was filed,

(b) ~~or~~ a claim of new evidence that was not discovered before the first such motion was filed, or.

(c) a final court order vacating one or more of the defendant's convictions either described in the judgment from which the defendant is seeking relief or upon which the judgment was based.

The clerk shall refer a successive motion to the judge to whom the case is assigned for a determination whether the motion is within one of the exceptions.

The court may waive the provisions of this rule if it concludes that there is a significant possibility that the defendant is innocent of the crime. For motions filed under both (G)(1) and (G)(2), the court shall enter an appropriate order disposing of the motion.

(3) [Unchanged.]

Staff Comment: The proposed amendment of MCR 6.502 would allow a third exception to the "one and only one motion" rule based on a final court order vacating one or more of a defendant's convictions either described in the judgment or upon which the judgment was based.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the secretary of the State Bar and to the state court administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by October 1, 2022 by clicking on the "Comment on this Proposal" link under this proposal on the Court's Proposed & Adopted Orders on Administrative Matters page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2021-48. Your comments and the comments of others will be posted under the chapter affected by this proposal.

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CONSTRUCTION

BUILDING & PREMISES EXPERT

Mr. Tyson reviews litigation matters, performs on-site inspections, and interviews litigants, both plaintiff and defendant. He researches, makes drawings, and provides evidence for court including correct building code and life safety statutes and standards as they may affect personal injury claims, construction, contracts, etc. and causation. Specializing in theories of OSHA and MIOSHA claims. Member of numerous building code and standard authorities, including but not limited to IBC (BOCA, UBC), NFPA, IAEI, NAHB, etc. A licensed builder with many years of tradesman, subcontractor, general contractor (hands-on) experience and construction expertise. Never disqualified in court.

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FOR SALE

Law office building and established legal practice in small northern Michigan community. The practice has been located in Kalkaska for 44 years and is currently the only full-time practice that concentrates in all general areas of the law. The practice includes an existing business phone number and law books. The law office building is a refurbished old house which includes some furnishings including desks and chairs. It is located on the main street in Kalkaska at 522 S. Cedar Street, 24 miles from Traverse City. This sale can include the building and practice together or the building only based on buyer preference. Contact Team Bertram for details at 231.409.7512.

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For lease, Troy. Windowed office available within second floor suite of a two-story class "A" building just south of Big Beaver, two blocks east of Somerset Mall. Includes internet and shared conference room; other resources available to share. Quiet and professional environment. Ask for Bill at 248.646.7700 x104 or bill@gaggoslaw.com.

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Robert E. Edick, former deputy administrator of the Michigan Attorney Grievance Commission, is available to consult in matters involving professional misconduct or negligence. Contact ethicsconsultant2021@gmail.com for details.

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LAWYERS & JUDGES ASSISTANCE
MEETING DIRECTORY

The following list reflects the latest information about lawyers and judges AA and NA meetings. Meetings marked with "*" have been designated for lawyers, judges, and law students only. All other meetings are attended primarily by lawyers, judges, and law students, but also are attended by others seeking recovery. In addition, we have listed "Other Meetings," which others in recovery have recommended as being good meetings for those in the legal profession.

For questions about any of the meetings listed, please contact the Lawyers and Judges Assistance Program at (800) 996-5522 or jclark@michbar.org.

PLEASE DO NOT HESITATE TO CONTACT LJAP DIRECTLY WITH ANY QUESTIONS PERTAINING TO VIRTUAL OR ONLINE 12-STEP ATTENDANCE DURING THE COVID-19 PANDEMIC. LJA COMMITTEE MEMBER ARVIN P. CAN ALSO BE CONTACTED FOR VIRTUAL LJAA MEETING LOGIN INFORMATION AT (248) 310-6360.

ALCOHOLICS ANONYMOUS & OTHER SUPPORT GROUPS

Bloomfield Hills
WEDNESDAY 6 PM*
Kirk in the Hills Presbyterian Church
1340 W. Long Lake Rd.
1/2 mile west of Telegraph

Detroit
MONDAY 7 PM*
Lawyers and Judges AA
St. Paul of the Cross
23333 Schoolcraft Rd.
I-96 south service drive, just east of Telegraph
(This is both an AA and NA meeting.)

East Lansing
WEDNESDAY 8 PM
Sense of Humor AA Meeting
Michigan State University Union
Lake Michigan Room
S.E. corner of Abbot and Grand River Ave.

Houghton Lake
SECOND SATURDAY OF THE MONTH 1 PM
Lawyers and Judges AA Meeting
Houghton Lake Alano Club
2410 N. Markey Rd.
Contact Scott with questions (989) 246-1200

Lansing
THURSDAY 7 PM*
Central Methodist Church, 2nd Floor
Corner of Capitol and Ottawa Street

Royal Oak
TUESDAY 7 PM*
Lawyers and Judges AA
St. John's Episcopal Church
26998 Woodward Ave.

Stevensville
THURSDAY 4 PM*
Al-Anon of Berrien County
4162 Red Arrow Highway

West Bloomfield Township
THURSDAY 7:30 PM*
Maplegrove
6773 W. Maple Rd.
Willingness Group, Room 21

GAMBLERS ANONYMOUS

For a list of meetings, visit
gamblersanonymous.org/mtgdirMI.html.

Please note that these meetings are not specifically for lawyers and judges.

OTHER MEETINGS

Bloomfield Hills
THURSDAY & SUNDAY 8 PM
Manresa Stag
1390 Quarton Rd.

Detroit
TUESDAY 6 PM
St. Aloysius Church Office
1232 Washington Blvd.

Detroit
FRIDAY 12 PM
Detroit Metropolitan Bar Association
645 Griswold
3550 Penobscot Bldg., 13th Floor
Smart Detroit Global Board Room 2

Farmington Hills
TUESDAY 7 AM
Antioch Lutheran Church
33360 W. 13 Mile
Corner of 13 Mile and Farmington Rd., use back entrance, basement

Monroe
TUESDAY 12:05 PM
Professionals in Recovery
Human Potential Center
22 W. 2nd St.
Closed meeting; restricted to professionals who are addicted to drugs and/or alcohol

Rochester
FRIDAY 8 PM
Rochester Presbyterian Church
1385 S. Adams
South of Avon Rd.
Closed meeting; men's group

Troy
FRIDAY 6 PM
The Business & Professional (STAG)
Closed Meeting of Narcotics Anonymous
Pilgrim Congregational Church
3061 N. Adams
2 blocks north of Big Beaver (16 Mile Rd.)

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