

**State Bar of Michigan  
Criminal Jurisprudence and Practice Committee**

**April 10, 2008 at 2:00 P.M. Tele-Conference  
Call-In Number: 1-800-270-1153; Pass Code 134891#.**

**MINUTES**

**Attendees:** Richard Cunningham, Michael Gordner, Abed Hammoud, Hon. David Hoort, Erika Julien, Martin Krohner, John Livesay, J. Kevin McKay, Valerie Newman, Angela Povilaitis, Samuel Smith

**SBM Staff:** Elizabeth Lyon, Carrie Sharlow

1. Call to Order
2. Welcome
3. Old Business

- a. [HB 5760](#) (Jackson) Courts; reorganization; Detroit recorder's court; reestablish. Amends sec. 504 of [1961 PA 236](#) (MCL [600.504](#)) & adds ch. 10B.

This item will be tabled for future discussion after the bill goes before the House Judiciary Committee.

4. New Business

- a. Discussion on Proposals to Amend the Court Rules that will be discussed by RA on April 12<sup>th</sup>.

12. [Consideration of ABA Model Court Rule on Provision on Legal Services Following Determination of Major Disaster](#)

The committee voted unanimously to support the ABA Model Court Rule.

13. [Consideration of MCR 6.201\(B\) Preservation of Electronic Recordings](#)

The committee voted to support the rule with the amendment in the second line: the matter, and which is known to the prosecuting attorney. There was also a question the committee would like to be brought before the RA concerning the length of time for data to be kept since appeals can take years.

14. [Consideration of MCR 6.201 Discovery to Apply in Misdemeanors and Civil Infractions, as well as Felony Cases.](#)

The committee voted six to two to support the revision of MCR 6.201.

15. [Consideration of MCR 6.425© Providing Copies of Presentence Reports to Defendant and Defense Counsel](#)

The committee voted to support the revision of MCR 6.425(C) and amend the proposal. It was requested that the time before the receipt of the presentence report and the sentencing be 48 hours at least (five days to a week would be preferred).

16. [Consideration of MCR 8.115 Use of Cell Phones by Lawyers in Courthouses](#)

The committee voted unanimously to support the revision of MCR 8.115.

[Consideration of Unauthorized Practice of Law Educational Activities Resolution](#)

The committee voted unanimously to support this item.

b. [ADMN No. 2006-32 – Proposed Amendment of Rule 2.504 of the Michigan Court Rules:](#)

This proposed amendment would allow a court, on motion of any party or sua sponte, to enter a default or dismiss a party's action or claim for failure to comply with the rules or a court order. The current rule allows such actions by the court only if the plaintiff makes such a motion. The proposed amendment would also allow the court to dismiss on its own initiative an action in which the plaintiff, on the law and the facts presented, is not entitled to relief, and would make the rule applicable to claims and hearings in addition to actions. The rule currently allows only the defendant to make such a motion.

The committee voted in March 2008 to support this rule. However, the Civil Procedure & Courts Committee and the Committee on Justice Initiatives have voted to oppose with the amendment to remove the sua sponte.

The committee came to a consensus to defer to Civil Procedure & Courts Committee.

c. The Committee had a discussion on the how Supreme Court opinions are issued.

The committee will wait to see how this progressed and Valerie Newman will continue to monitor.

4. Adjournment.