



p 517-346-6300

September 26, 2012

p 800-968-1442

Corbin Davis

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Clerk of the Court

www.michbar.org

Michigan Supreme Court

P.O. Box 30052

Lansing, MI 48909

306 Townsend Street

RE: ADM File No. 2011-09 – Proposed Revision of Administrative Order No. 1989-1

Michael Franck Building

Lansing, MI

Dear Clerk Davis:

48933-2012

At its September 4, 2012 meeting, the Executive Committee of the State Bar of Michigan considered the above administrative order revision published for comment. In its review, the Committee considered recommendations from the Civil Procedure & Courts Committee.

The Committee decided to not take a position on this matter, but to authorize the Civil Procedure & Courts Committee to submit its comments. These are enclosed.

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

Sincerely,

Janet K. Welch
Executive Director

cc: Anne Boomer, Administrative Counsel, Michigan Supreme Court
Bruce A. Courtade, President

Report on Public Policy Position

Name of committee:

Civil Procedure and Courts Committee

Contact person:

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Proposed Court Rule or Administrative Order Number:

2011-09 - Proposed Revision of Administrative Order No. 1989-1 (rules regarding media access in the Court of Appeals and the Supreme Court)

The proposed amendment of Administrative Order No. 1989-1 adds new language that clarifies and expands the standards for allowing film or electronic media coverage of court proceedings in the Court of Appeals and the Supreme Court.

Date position was adopted:

July 18, 2012

Process used to take the ideological position:

Position was adopted after discussion at a scheduled and electronic vote.

Number of members in the decision-making body:

20

Number who voted in favor and opposed to the position:

15 Voted for position

0 Voted against position

0 Abstained from vote

5 Did not vote

Recommendation:

No position with the following recommended revisions:

The committee generally takes no position on the issue. However, assuming the court desires to proceed with the matter, the Committee notes the following as to the proposed text:

- Subrule 2(b) is purportedly designed to address matters both in the Court of Appeals and Supreme Court. However, the text of the rule is confusing. It consistently refers to a single “judge.” In the first instance, this is not the correct nomenclature for Justices of the Supreme Court, and subrule (iii) would suggest that a

decision by the Supreme Court to suspend media access could be appealed to the Chief Judge of the Court of Appeals, which would create an interesting dynamic between our courts.

- Second, application of the rule and use of the word “judge” makes it extremely unclear as to how this would be carried out in practice, or applied to a three-judge panel, an en banc panel or a full sitting of the Supreme Court. It is unclear who precisely makes this determination: Is it deemed an administrative motion under MCR 7.211(G)(2)? Can a single judge on a three judge panel “terminate” coverage?
- The reference to MCR 8.116(D) should be to MCR 8.116(D)(1).

The Committee suggests, if the Court is to proceed, a complete revision of the proposed text to more carefully address the differences between the courts and application of the rule in various scenarios.

The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report.

http://courts.michigan.gov/supremecourt/Resources/Administrative/2011-09_2012-06-07.pdf