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Corbin Davis
Clerk of the Court
Michigan Supreme Court
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Lansing, MI

48933-2012

RE: ADM File No. 2008-32 Proposed Amendment of Rule 2.203 of the Michigan Court Rules

Dear Clerk Davis:

At its March 1, 2011 meeting, the Executive Committee of the State Bar of Michigan considered the above rule amendments published for comment. The Committee concurred with the rationale provided by the Litigation Section and voted to oppose the proposed amendment.

As stated by the Litigation Section:

The proposed amendment authorizes the issuance of a summons to a new party that is added by a defendant's counterclaim or cross-claim. The Section is concerned that this amendment will cause confusion because, pursuant to MCR 2.203 as currently written, a counterclaim or cross claim may be directed only to parties that are already in the case. They may not be used to add a new party. Only a third-party complaint may be used by a defendant to add a new party and then only in the limited circumstances where the new party is liable for some or all of the plaintiff's claim. Thus, the proposed amendment to MCR 2.203 should not be adopted unless it also permits a defendant to add a new party by a counterclaim or cross-claim and specifies the circumstances under which a new party may be added through those pleadings.

We thank the Court for its publication of the proposed amendment. Please contact me with any further questions.

Sincerely,



Janet Welch
Executive Director

cc: Anne Boomer, Administrative Counsel, Michigan Supreme Court
W. Anthony Jenkins, President
Hon. Terry L. Clark, President, Michigan District Judges Association
Hon. Annette M. Jurkiewicz-Berry, President, Michigan Judges Association
Hon. Kenneth L. Tacoma, President, Michigan Probate Judges Association