

***SPECIAL COMMITTEE ON GRIEVANCE
STATE BAR OF MICHIGAN***

ANNUAL REPORT FOR 2004-2005

Committee Name: Special Committee on Grievance.

Jurisdiction: Shall make recommendations concerning the operation of the Attorney Discipline Board, the Attorney Grievance Commission, and the Judicial Tenure Commission, and the Rules concerning them upon the request of the Board of Commissioners.

Officers and Membership:

Chair: John W. Allen

Members: 19

Associate Members: 3

2004-05 Meeting Schedule (date and location):

- January 10, 2005 (ADB Offices, Detroit, Michigan)
- Panels at SBM Representative Assembly Meetings
 - January 22, 2005- Lansing
 - April 16, 2005- Lansing
- Appearances on State-wide Panels at request of Representative Assembly (over 1200 lawyers attending):
 - March 10, 2005- Grand Rapids Bar Association
 - March 16, 2005- Metro Detroit Bar Association
 - March 24, 2005- Oakland County Bar Association
 - March 28, 2005- Genesee County Bar Association
 - April 14, 2005- Ingham County Bar Association
 - May 9, 2005- Kalamazoo Bar Association

Committee Activities:

1. Supreme Court ADM 2002-29 – Proposed Michigan Standards for Imposing Lawyer Sanctions (MSILS)

- Current Michigan Standards for Imposing Lawyer Sanctions
- Attorney Discipline Board (ADB) Proposals
- Alternative Proposal from Attorney Donald D. Campbell

2. Supreme Court ADM 2003-62-- Proposed Amendments to Michigan Rules of Professional Conduct (MRPC)

- Framed Debate for November 14, 2003 Representative Assembly Meeting.
- Played critical role in January 22, 2005, and April 16, 2005 Representative Assembly Meetings.
- Representative Assembly adopted several Grievance Committee Recommendations.
- Agreeing with Grievance Committee and Representative Assembly, Supreme Court re-ordered consideration of MSILS and proposals to amend MRPC, and adopted Committee concept of “nonrefundable retainer fee” rule.
- Assisted in eight (8) meetings (two with Representative Assembly; 6 others with total of 1200+ lawyers state-wide).

Resources Provided by the State Bar of Michigan in Support of Committee Work:

Victoria Kremski and John Berry frequently attend Committee Meetings. The SBM staff produced a “redline” version of the proposed amendments to MRPC, which is an important service to all SBM members.

Future Goals and Activities:

1. MRPC and MSILS.

The Grievance Committee should continue its work regarding MSILS and the proposed Amendments to MRPC, including appearance at any Supreme Court hearings.

The State Bar of Michigan Special Committee on Grievance generated its own Report and, on November 14, 2003, the State Bar of Michigan Representative Assembly adopted several Resolutions regarding these proposals, which, taken together, contain many of the most profound debates which currently confront our profession. Each of the issues is one vitally affecting the grievance and discipline process, and about which reasonable persons may reasonably differ. By the many panels and other publicity, a thorough public discussion has been guaranteed, and SBM members are much better informed.

The Special Committee on Grievance should continue to play a key role in that process.

2. Amendments to Code of Judicial Conduct (CJC).

In February, 2006, at the ABA Mid-year Meeting, the ABA House of Delegates will likely consider several amendments to the Model Code of Judicial Conduct (MCJC). This is a culmination of an extensive, multi-year review and revision process, much like the ABA “Ethics 2000” approach to revisions in the MRPC.

The revisions will involve many controversial topics, such as campaign speech by candidates for judicial office, service on community or charitable boards and activities, and even the underlying “appearance of impropriety” standard. Much like the ongoing process for the consideration and adoption of the pending amendments to MRPC and MSILS, we should expect considerable attention to proposed CJC amendments, likely during the 2005-2006 SBM year.

The Special Committee on Grievance, with its function as an interface with the Michigan Judicial Tenure Commission, should be part of that process.

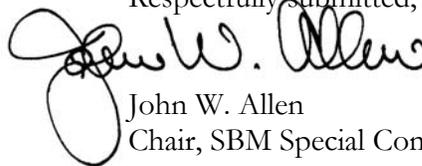
3. Developments regarding Attorney-Client Privilege.

In the last few years, both the federal (SEC, DOJ, HSD) and some state governments have issued rules and regulations which require lawyers to report to the government on their clients' activities, and which encourage or compel clients to waive the privilege. At the same time, some states have issued ethics opinions stating that lawyers who comply with these laws may face professional discipline for violations of MRPC 1.6 and breaches of client confidentiality.

In August 2005 and February 2006, the ABA House of Delegates will be acting on the Reports of the ABA Task Force on Attorney-Client Privilege (on which the Grievance Committee Chair is a member). Those actions by ABA may call for the consideration of actions by the Michigan discipline system.

The Special Committee on Grievance, with its function as an interface with the Michigan Attorney Grievance Commission and the Michigan Discipline Board, should be part of that process.

Respectfully submitted,



John W. Allen

Chair, SBM Special Committee on Grievance

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