

July 1, 2024

Larry S. Royster
Clerk of the Court
Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

RE: ADM File No. 2022-10: Proposed Alternative Amendments of Rule 8.126 of the Michigan Court Rules

Dear Clerk Royster:

At its most recent meeting, the Board of Commissioners of the State Bar of Michigan (“SBM”) considered ADM File No. 2022-10 and voted unanimously to support the amendments to Rule 8.126 as set forth in Alternative B, with an additional amendment to include language from (B)(1) of Alternative A, regarding a tribunal’s discretion to grant *pro hac vice* (“PHV”) admissions.¹

SBM initially proposed amendments to Rule 8.126 in February 2022 to help improve the effectiveness of the PHV admission process for both the bench and bar, and to clarify rule language based on inquiries the Bar frequently receives from attorneys seeking temporary admission. The proposal was based on feedback gathered from the Bar’s Access to Justice Policy Committee, Civil Procedure & Courts Committee, and Appellate Practice Section, as well as Michigan Defense Trial Council and the Michigan Judges Association.

Both proposed alternatives incorporate several of SBM’s initial suggestions, such as requiring foreign attorneys to provide notification if they are no longer in good standing in any jurisdiction and clarifying the definition of “case” for PHV admission purposes. However, only Alternative B includes one of the Bar’s most important proposals: eliminating the five-case PHV admission limit for foreign attorneys employed by legal services programs and law school clinics providing services to indigent clients. This change is crucial to addressing the documented, significant need for legal aid² and aligns with the Court’s Justice For All Commission’s goal of ensuring 100% access to Michigan’s civil justice system.

Additionally, the Bar’s initial proposal recommended including facilitators and mediators within the definition of a tribunal for the purpose of PHV admissions, and we continue to believe that it is important for the Court to clarify the application of Rule 8.126 in these alternative dispute resolution contexts. The Board also took note of the concerns submitted by the Alternative Dispute Resolution Section and urges the Court to consider these carefully.

¹ “Permission for a foreign attorney to appear and practice is within the discretion of the tribunal.”

² Legal Services Corporation, *The Justice Gap: The Unmet Civil Legal Needs of Low-income Americans* <<https://justicegap.lsc.gov>> (accessed June 28, 2024).



Thank you for publishing these proposed amendments and for the opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads "Peter Cunningham". The signature is written in a cursive style with a large, prominent initial "P".

Peter Cunningham
Executive Director

cc: Sarah Roth, Administrative Counsel, Michigan Supreme Court
Daniel D. Quick, President