Michigan Judges Association

Founded 1927

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June 1, 2009

RECEIVED
JUN - 4 2009
CORBIN R. DAVIS
CLERK SUPREME COURT

Chief Justice Marilyn J. Kelly
Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

RE: ADM file no. 2009-09, Proposed Amendment of Administrative Order 2.0009-XX
ADM file no. 2009-04 Proposed Amendment of Rule 2.003-SC of the Michigan Court Rules.

Dear Chief Justice Kelly:

At the May 19, 2009 meeting of the Michigan Judges Association, the Executive Board, Rules Committee, and Family Law Committee considered the above-referenced proposed amendments.

We first considered ADM file no. 2009-09, proposed amendment of Administrative Order 2.009-XX regarding the proposal to require a court to submit a local administrative order to SCAO when appointing magistrates and referees. It was the decision of the Executive Board of the Michigan Judges Association to oppose requiring courts to submit by local administrative order information regarding appointment of magistrates and referees, and describing the scope of the authority conferred by the court on that magistrate or referee. It is the position of MJA that notification of the SCAO of that identifying information and scope of authority conferred by the court, can be accomplished without the necessity of a local administrative order.

MJA also considered ADM file no. 2009-04 proposed new Rule 2.003-SC of the Michigan Court Rules and unanimously agreed upon Alternative C, which was the only alternative that pertained to all judges and that term defined to include a justice of the Michigan Supreme Court. In supporting Alternative C, however, MJA would propose the following modifications:

(C)(1)(a): we propose removing "actually" so that the provision would read as follows: "The judge is biased or prejudiced for or against a party or attorney".

(C)(1)(b): We propose removing or striking this provision altogether as it is too vague and too broad.

(D)(3)(a)(i)(ii): We propose the following modifications (in bold) which should move the case along and prevent delay and gamesmanship:

* (i) In a court having two or more judges, on the **immediate** request of a party, the challenged judge shall refer the motion to the chief judge, who shall **promptly** decide the motion de novo **from the record**.
* (ii) In a single judge court, or if the challenged judge is the chief judge, on the **immediate** request of a party, the challenged judge shall refer the motion to the State Court Administrator for assignment to another judge, who shall **promptly** decide the motion de novo **from the record**.

MJA believes that a challenged justice should decide the issue and publish his or her reasons about whether to participate because articulation of reasons is important to the public.

Under Provision (E) Remittal of Disqualification, to be consistent, MJA would have the term "actual" removed.

We thank the Court for considering our input on these matters. If the Michigan Judges Association may provide any further information or assistance, please do not hesitate to contact us.

Sincerely,

MICHIGAN JUDGES ASSOCIATION

Hon. Fred L. Borchard
President

CC: Corbin R. Davis, Clerk of the Michigan Supreme Court
Hon. Stephen D. Gorsalitz, Rules Committee Chairperson
Hon. Joan E. Young, Family Law Committee Chairperson
Anne Boomer, Administrative Counsel