Michigan Judges Association
Founded 1927

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RESIDENT:
ON. LAWRENCE C. ROOT
)th Circuit Court
)0 Elm, P.O. Box 822
ig Rapids, MI 49307
!31)592-0780
!31) 592-0100 (Fax)
·mail: lcroot@tucker-usa.com

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ON. ALTON T. DAVIS

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Court of Appeals Designee:
ON. WILLIAM WHITBECK

Executive Director:
MICHAEL BUSCH

October 22, 2002

Corbin R. Davis
Clerk, Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

RE: ADM 2001-47 Proposed Amendments of
MCR 2.102 of the Michigan Court Rules

Dear Mr. Davis:

At the October 15, 2002, meeting of the Michigan Judges Association, the Rules Committee and the Executive Board discussed the above-captioned proposal.

The MJA recommends to the Court that the standard of good cause in subparagraph (D) be retained. The standard of due diligence is less inclusive than the good cause standard. Good cause may include due diligence, but does not necessarily include only due diligence. The good cause standard gives trial courts the necessary flexibility to exercise their discretion in addressing case flow management to reduce unnecessary delay in litigation.

MJA also recommends that the Court retain the one-year period from the date the complaint is filed. However, we recommend that the rule allow the issuance of additional summonses rather than limiting the issuance to only a second summons. There are occasions when a judge will want to authorize issuing a second summons, but not for the entire period of time as authorized by the current rule. The rule in its current form does not specifically authorize a summons beyond a second summons within the one-year period. The practice of many judges is to issue more than a second summons within the one-year period from the date the complaint is filed. This is not a routine practice, but does occur on occasion when judges exercise their discretion on a showing of good cause.

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400 Elm, P.O. Box 822
Big Rapids, MI 49307
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e-mail: lcroot@tucker-usa.com

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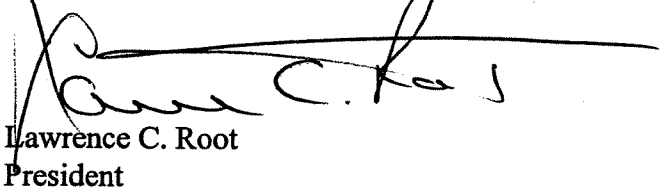
We thank the Court for considering our comments on this matter. If the Michigan Judges Association may provide any further information or assistance, we stand ready to assist the Court.

Sincerely,

MICHIGAN JUDGES ASSOCIATION



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