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April 30, 2019

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

RE: ADM File No. 2002-37 – Proposed Administrative Order to Require E-Filing Access Plans

Dear Clerk Royster:

At its April 12, 2019 meeting, the State Bar of Michigan Board of Commissioners (Board) considered the above-referenced proposed administrative order published by the Court for comment. As part of its review, the Board considered recommendations from the Access to Justice Policy, Civil Procedure & Courts, and Criminal Jurisprudence & Practice committees.

After this review, the Board voted unanimously to support the proposed administrative order with the following modifications.

1. Courts Mandating E-Filing Should Be Required to Have At Least One Court Computer Workstation at the Courthouse and All Workstations Have Assistance Available.

Under Section II(A), courts are required to have a certain number of computer workstations available to the public for purposes of e-filing. While the order requires these workstations to be located in the courthouse “where possible,” the order also allows courts to enter into a Memorandum of Understanding (MOU) with a third party to house computer workstations. This means that e-filing workstations could be located offsite in libraries, universities, senior centers, or community centers, and it is unclear what, if any, assistance will be available at these locations. The Board believes the order should require that courts have at least one computer workstation available at the courthouse where a clerk or other employee is able to assist litigants with e-filing. In addition, the order should require entities with which the court enters into MOUs to have employees trained and available to assist litigants with e-filing.

2. Courts Should Be Required to Provide In-Person E-Filing Assistance.

In Section II(B), the proposed order requires that courts provide individuals with e-filing assistance. This could include written materials, such as tutorials. In order to ensure that individuals have meaningful access to e-filing, in-person clerk assistance is essential.

Instead of listing “clerk assistance” as one of several possible means of assistance, all courts should be required to provide in-person clerk assistance.

3. The Order Should Explicitly Provide Certain Assistance Does Not Constitute Legal Advice.

At the beginning of Section II(B), the proposed order should define the type of assistance that does not constitute legal advice with respect to e-filing assistance based on the State Court Administrative Office (SCAO) guidelines.

4. Individuals Should Only Be Required to Submit Grievances to Either the Chief Judge or Court Administrator.

As currently written, under Section IV(C), individuals are required to submit grievances concerning access to e-filing assistance to “the chief judge, court administrator, and State Court Administrative Office.” This requirement is too burdensome, particularly for self-represented litigants who are most likely to seek court assistance with e-filing. For this reason, the Board recommends that individuals only be required to submit grievances to either the chief judge or the court administrator, who can then forward them on to SCAO.

We thank the Court for the opportunity to convey the Board’s position on this proposed administrative order.

Sincerely,



Janet K. Welch
Executive Director

cc: Anne Boomer, Administrative Counsel, Michigan Supreme Court
Jennifer M. Grieco, President, State Bar of Michigan