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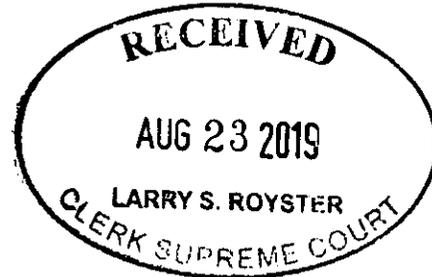
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August 21, 2019

Supreme Court Clerk
c/o Larry S. Royster
P.O. Box 30052
Lansing, MI 48909



Re: ADM File No:2018-30
Proposed Amendment of MCR 8.115 of the Michigan Court Rules

Dear Mr. Royster:

I am writing on behalf of the Michigan Probate Judges Association, to express our association's views and comments on the proposed changed to MCR 8.115.

With technology changing rapidly, it is acknowledged that rules and policies need to be amended pertaining to courthouses and other government offices to keep pace with those changes. However, the proposed amendment to MCR 8.115 should not be adopted for various reasons. Those reasons include (but are not limited to) the following:

Judges and other county officials in each individual county are in the best position to create and tailor a policy that best serves each individual court. The Court and County would locally know the best way to address and balance the safety and fairness to court personnel, litigants, customers, and the general public. Any such tailored policy contained in an LAO should contain exceptions to a ban so that litigants could use their phones, on a case by case basis, for legitimate court business reasons like: offering evidence; paying fees and fines from tickets that may be on an electronic device; and allowing probationers to offer their phones for inspection.

Courts differ vastly in many aspects such as volume of cases processed, layout, square footage, security resources, size of staff, etc. This makes application of this proposed amendment equally different from court to court, both in application and effect.

Technology is constantly evolving. Leaving this policy to the discretion of the local county officials, allows for the policy to be amended efficiently,

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when such action is necessary and appropriate. LAOs can be amended much faster than MCRs. The process for amending court rules is insufficient to keep up with the ever-changing world of technology. In short, the process for amending court rules cannot keep pace with the evolution of technology. Inevitably, some technological gadget will be created in the near future that this amendment did not and could not, contemplate, rendering it once again obsolete.

In many counties, especially the larger ones, it is almost impossible for Judges and court staff to police cell phone usage and other electronic devices in a courthouse on any given day, but especially in the courtrooms on motion days where hundreds of people are in and out of a courtroom in a given day.

Funding is often not available at the county level to employ additional personnel to police cell phone usage. This is a significant because, historically, Courts have observed that cell phones have been used for inappropriate purposes like: circumventing sequestration of witness orders; witness intimidation; and bullying and re-victimization of victims (including minor victims) through re-publication of surreptitiously recorded testimony.

For counties who allow the viewing of prior court proceedings but are not provided a copy of the JAVS video, an additional staff member would need to be utilized to literally police their use of electronic devices to avoid inappropriate recording and manipulation of such videos. Thus, this policy creates a resource issue for already financially burdened courts.

Many ringing phones and unauthorized usage of electronic devices (i.e. pictures, videos, texting sequestered witnesses etc.) can be expected. This will cause disruption of attorneys, judges, witness and court staff; impeding efficiency and quite possibly interfering with the integrity of a case. A blanket Court Rule allowing such usage does not allow the local counties to create their own policies that would best meet the needs and available resources available to each particular county.

Using the tools provided per the proposed amendment to end improper cell phone usage would exponentially increase the length of the disruption and the degree of the disruption. This should be addressed by the local counties who know what resources they have and can utilize and tailor make their own policies.

A large source of revenue is copy fees. This income will be lost under the proposed amendment as it allows for the public to take pictures of legal documents. This also opens the doors for manipulation of legal documents for inappropriate purposes. This not only affects the courts, but also other County Departments such as the County Clerk's Office or Treasurer if housed in the same building complex as the Court.

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In summary, if the Supreme Court believes a court rule is necessary for public access and transparency, the court rule should then simply require each county to create its own LAO to allow cell phones and/or other electronic devices to suit the county's unique individual needs and limitations to be approved by SCAO.

Thank you for the opportunity to offer our comments on the proposed rule changes.

Very truly yours,



Monte J. Burmeister
President, Michigan Probate Judges Association