



The Circuit Court
for the Sixth Judicial Circuit of Michigan
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PONTIAC, MICHIGAN 48341-0404

MICHAEL WARREN
CIRCUIT JUDGE

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April 26, 2019

Chief Justice McCormack and Justices of the Supreme Court
Michigan Supreme Court
PO Box 30052
Lansing, Michigan 48909

RE: ADM File No. 2019-03
Proposed Amendment of Rule 8.110 of the Michigan Rule of Court

Dear Chief Justice McCormack and Justices of the Supreme Court:

I offer the following comments on the Proposed Amendment of Rule 8.110:

Roll-Over Timing. As you know, the current version of MCR 8.110(D)(3) (Judicial Vacation Standard) allows a maximum of 30 days of annual vacation leave, and clarifies that "A maximum of 30 days of annual vacation unused due to workload constraints may be carried from one calendar year into the first quarter of the next calendar year and used during that quarter, if approved by the chief judge." This situation can often result in judges rushing to use roll-over days in less than convenient times in the first quarter of the year, or simply letting them expire. This is particularly true for the many judges who have school age children with Spring Break in April. Because attempting to jam in roll-over days on the eve of Spring Break is so burdensome on the docket, often they just expire without use. On more than one occasion, I personally lost carry-over days, yet in April I took off 5 days to spend Spring Break with my family. I am not alone. The flexibility offered by the revisions on the roll-over expiration period would be most welcome. It has the added benefit of improving docket management by likely spreading the use of annual leave more evenly across the year.

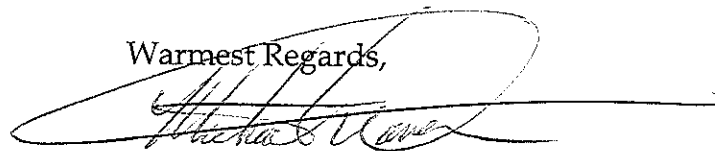
Cap of Roll-Over Days. The new cap of 15 roll-over days (as opposed to 30 days in the current rule) is reasonable. My understanding is that very few judges roll over more than 15 days and use them all in the first quarter. The trade-off of reducing the number of roll-over days in exchange for the flexibility of when they can be used is welcomed.

Elimination of Chief Judge Veto over Number of Days and Roll-Over Use. Sufficient vacation time is important to relieve stress, clear thinking, community engagement, energy, enthusiasm, mental health, and family. This in turn improves judicial decision-making. Accordingly, increasing the annual leave to 30 days and the use of roll-over days without having to obtain permission from the Chief Judge is an excellent objective. To my knowledge, all my Chief Judges have gracefully given permission to all judges to use all 30 days and all roll-over days. However, hearsay suggests that some other Chief Judges have been less than graceful. That situation can only sow the seeds of discontent and discord.

Approval of Judicial Absences. The change from approving absences to notification (with the caveats listed) can only improve judicial comity. Again, this has never been an issue with my Chief Judges but could be a minefield with others.

Application and Input for Chief Judge Appointments. A standardized application and the opportunity to provide input regarding the selection of the chief judge is appropriate. My personal experience has been that on some occasions I was asked for my thoughts (for whatever they were worth), and other times I was not. Having a uniform opportunity to provide input is welcome. Likewise, having specific objective criteria would help provide greater transparency to the selection process, and could assist potential applicants or judges wishing to provide input to provide the most material information possible to the Supreme Court. Based on the professionalism of the Michigan Supreme Court, I would always expect any input to be given "respectful consideration," but the acknowledgement is a wonderful gesture that further invites input.

Warmest Regards,

A handwritten signature in black ink, appearing to read "Michael Warren", written over a large, stylized, looping flourish that extends across the width of the signature area.

Hon. Michael Warren