



KNAGGS BRAKE, P.C.  
ATTORNEYS AT LAW

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April 24, 2020

Supreme Court Clerk  
P.O. Box 30052  
Lansing, Michigan 48909



Re: ADM File No. 2019-36

Dear Clerk:

I am writing with regard to the proposed amendment of Rule 16 and a proposed addition of Rule 20 of the Rules concerning State Bar of Michigan.

For the past four years, I have served on the State Bar of Michigan Standing Committee on the Unauthorized Practice of Law. As such, I am familiar with how complaints of unauthorized practice of law are investigated by the State Bar. The proposed Rule changes are much needed and will help further address the problem of unauthorized practice of law.

I have a concern regarding the language of Section 3 of Rule 16, and Section 4 of the proposed new Rule 20. The pertinent language is as follows:

“A person is absolutely immune from suit for statements and communications transmitted solely to State Bar staff and their agents, the Standing Committee on the Unauthorized Practice of Law or the State Bar Board of Commissioners or when given in the course of an investigation of an unauthorized practice of law complaint”.

It would seem that this language is intended to provide immunity to complainants and witnesses. As worded, however, it could be argued that the immunity extends to those who have been accused of unauthorized practice of law.

When the State Bar of Michigan receives a complaint of unauthorized practice of law, its staff conducts an investigation, which often includes making contact with the person accused of engaging in unauthorized practice of law. The contact with the person often yields evidence to support a complaint of unauthorized practice of law. It would seem that the language quoted above

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is not intended to provide immunity to a person accused of unauthorized practice of law. I suggest that the language be modified to clarify that only complainants and witnesses receive the immunity, and not those responding to complaints made against them.

Thank you for your consideration. Please do not hesitate to contact me if I may be of further assistance in this regard.

Very truly yours,

KNAGGS BRAKE, P.C.

A handwritten signature in black ink, appearing to read "David R. Brake", with a long horizontal flourish extending to the right.

David R. Brake

DRB/blr  
Enclosure