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May 16, 2013

Corbin Davis  
Clerk of the Court  
Michigan Supreme Court  
PO Box 30052  
Lansing, MI 48909

RE: 2012-04 - Proposed amendment of MCR 3.218

Dear Clerk Davis:

At its May 16, 2013 meeting of the Board of Directors, the Friend of the Court Association of Michigan considered proposed amendments to MCR 3.218. The board voted unanimously to support the amendments.

We offer a few technical suggestions that we believe will further assist our offices in the effective management of our FOC records:

- Expand section (A)(1) to clearly state that referee hearings are public hearings and their record, whether audio, video or written transcript are public records. This will clarify an area of law that, although clear, is not plainly stated elsewhere, which creates confusion.
- In section (A)(3)(a), eliminate everything after "staff notes." We would not want staff to feel restricted from making notes in the course of developing recommendations and conducting investigations and other matters. However, the proposed definition, would limit the confidentiality of these notes to just a few limited situations. We believe that all staff notes should remain confidential.
- In section (B)(1), we suggest that both guardians and conservators should be given access to FOC records, whether they represent a minor or a party. As such, we recommend that the first line of this section read as follows: "A party; third-party custodian; guardian or conservator; guardian ad litem or counsel for a minor..."

We further feel that the use of the term governmental agency as it is used in this section should be defined. We are unsure whether it would include governmental

agencies from foreign countries (we believe it should not) or entities like the State Bar of Michigan when such an agency seeks to insure compliance with a court order before issuance of a license (we believe this type of agency should be permitted access to FOC records).

In fact, it is our recommendation that an additional section should be added to section (B) to clearly provide access to FOC records to attorneys involved in personal injury or workers compensation lawsuits when such access is for the purposes of collecting a portion of any settlement for payment of the support debt owed on the FOC case.

- Finally, we recommend further clarification be made to section (C)(5), which provides for access to corrections, parole and probation officers in connection with a criminal action connected to the case for which the records are kept. We believe this was intended to provide access to officers monitoring non-payers who have been charged with criminal non-support. However, we believe that as written this could be used by officers who seek general information about payers who also have criminal matters.

On behalf of the Board of Directors of the Friend of the Court Association of Michigan, we thank the Court for the opportunity to convey the Board's position and recommendations.

Sincerely,

Suzanne Hollyer  
FOCA Legislative Committee  
Co-Chair  
Director, Oakland County FOC  
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cc: Steve Capps, Director, Friend of the Court Bureau, State Court Administrative Office