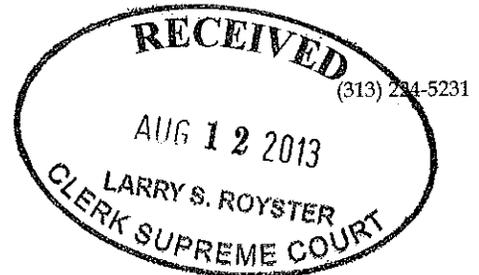




THIRD JUDICIAL CIRCUIT
OF MICHIGAN

DANIEL P. RYAN
CIRCUIT COURT JUDGE

COLEMAN A. YOUNG MUNICIPAL CENTER
2 WOODWARD AVENUE
DETROIT, MICHIGAN 48226



August 8, 2013

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

Re: ADM File No. 2012-30

To the Clerk of the Court:

I write with regard to the above-referenced ADM file addressing proposed changes to MCR 2.621 and 2.622 regarding the appointment of receivers.

Proposed MCR 2.622 (C)(1) would require a court to "defer" to the movant's nomination of a receiver absent "good cause." Moreover, the court would be required to make findings of fact as to the adequacy of any alternative. Because receivers are appointed as "officers of the court" and not the "movant", I oppose the proposed modification.

As a circuit court and business court judge who regularly handles matters involving receivers, I frequently have "movants" recommending real estate brokers, bankers, property managers, CPA's and their non-legal "receivers" in their motion requests. It has been this courts' policy to appoint lawyers to act as receivers and "officers of the court" upon request of the parties with broad power to retain necessary consultants. "A receiver is an officer of the court who protects and preserves property on behalf of the parties to a pending lawsuit. 65 Am Jur 2d, Receivers, § 1, p654." State Treasurer v Abbott, 468 Mich 143, 152 n 10 (2003). As such, the presumption should be with the court, not with the movant or the parties. Certainly the court takes into account any suggestions of a receiver, but such a request should not mandate selection of movant's receiver. The proposed process raises a concern that an "officer of the court" may be beholden to the moving party and not the Court. A receiver, as an officer of the court, must "subserve the interests of all persons interested in the subject-matter committed to his care," Abbott, supra and should not serve only the interests of the movant.

Thank you for the opportunity to comment on this proposal and to express my opposition to the proposed changes.

Sincerely,

Daniel P. Ryan
Circuit Court Judge