



THIRD JUDICIAL CIRCUIT
OF MICHIGAN

KATHLEEN M. McCARTHY
PRESIDING JUDGE
FAMILY DIVISION

COLEMAN A. YOUNG MUNICIPAL CENTER
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DETROIT, MICHIGAN 48226-3413

(313) 224-5481

August 23, 2013

VIA E-MAIL TO: MSC_CLERK@COURTS.MI.GOV

Larry S. Royster
Clerk of the Court
Michigan Supreme Court
P.O. Box 30052
Lansing, Michigan 48909

Re: ADM File No. 2012-30

To the Clerk of the Court:

We are writing to express our opposition to the amendments to MCRs 2.621 and 2.622 that are proposed in the above ADM File.

The signatories to this letter are the Bench of the Third Judicial Circuit Court assigned to the Domestic Relations Section of the Family Division. In the course of our judicial duties, we regularly appoint receivers under the provisions of MCL 600.2926, MCL 722.719(4), and other statutes. Receivers are a necessity for the enforcement of many of our judgments and orders regarding marital property division, child support, and spousal support. Family Division cases involve a wide range of factual circumstances, such that a receiver appointed to enforce a judgment or order may be required to locate hidden assets of the debtor, sell personal or real property of the debtor, run a debtor's business in order to preserve the debtor's assets, or take other action to recover funds to be paid under the judgment or order.

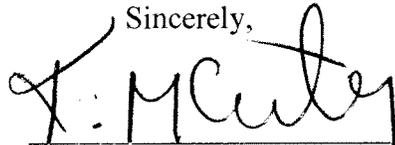
To properly handle these duties, the receiver typically must possess sophisticated or specialized knowledge and experience pertinent to the particular situation. It is the experience of many of the undersigned that the receivers suggested by the parties to these cases often lack the knowledge and experience requisite to the cases. This is understandable, as the parties and their attorneys rarely have proficiency in these areas and so often nominate receivers who are inappropriate or inadequate to the nuances of the particular case. Thus, the undersigned oppose proposed MCR 2.622(C)(1), which mandates that a court defer to a petitioner's nomination of a

receiver except if the court finds good cause not to appoint the nominated receiver and then makes specific findings regarding any receivers it is considering for appointment.

In our view, the mandate in the proposed court rule is the reverse of what should occur. Instead of the procedure given in the proposed amendments, a party proposing a receiver should be required to present to the court the proposed receiver's qualifications to handle the matter at hand, with the court thereafter determining whether the proposed receiver is appropriate. This is of particular importance in the Family Division, where the appointment of a receiver may occur as an enforcement remedy for contempt of court due to a debtor's failure to comply with spousal or child support orders. See MCL 552.631(1)(c); MCL 552.625; MCL 552.625b; MCL 552.27. It would be anomalous indeed if a party were able to dictate to a court who should be appointed as a receiver and, thus, who should hold the key to resolving a debtor's contempt of court citation. Accordingly, we believe that the selection of a receiver in such cases should remain within the court's discretion.

We appreciate the opportunity to express our opposition to the proposed changes.

Sincerely,



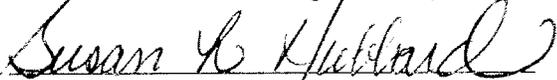
Hon. Kathleen M. McCarthy
Presiding Judge, Family Division
Third Circuit Court



Hon. Eric W. Cholack
Third Circuit Court Judge, Family Division



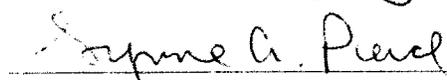
Hon. Charlene M. Elder
Third Circuit Court Judge, Family Division



Hon. Susan L. Hubbard
Third Circuit Court Judge, Family Division



Hon. Connie M. Kelley
Third Circuit Court Judge, Family Division



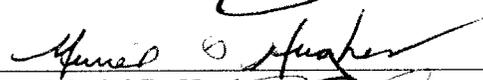
Hon. Lynn A. Pierce
Third Circuit Court Judge, Family Division



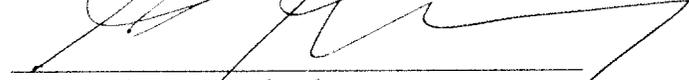
Hon. Kevin J. Cox
Third Circuit Court Judge, Family Division



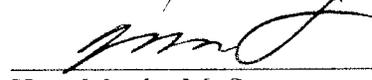
Hon. Richard B. Halloran
Third Circuit Court Judge, Family Division



Hon. Muriel D. Hughes
Third Circuit Court Judge, Family Division



Hon. Arthur J. Lombard
Third Circuit Court Judge, Family Division



Hon. Martha M. Snow
Third Circuit Court Judge, Family Division