



**THE THIRD JUDICIAL CIRCUIT
OF MICHIGAN**
Detroit, Michigan 48226-3413

February 7, 2014
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. 2013-03 (amendment of MCR 2.302(A) to add subsection (4))

To the Clerk of the Court:

The Bench of the Third Judicial Circuit Court assigned to the Domestic Relations Section of the Family Division urges the Michigan Supreme Court to adopt the amendment to MCR 2.302(A) that is proposed in ADM File No. 2013-03. This amendment specifically states, "After a postjudgment motion is filed pursuant to a domestic relations action as defined by subchapter 3.200 of these rules, parties may obtain discovery by any means provided in subchapter 2.300 of these rules." This Bench believes that the amendment would clarify and add efficiency to post-judgment procedure in domestic relations matters.

Civil actions typically end once the judgment is signed and the conditions in the judgment are met; it is rare for extensive post judgment litigation to occur. Domestic relations actions do not follow the same path. For public policy reasons, most domestic relations judgments remain modifiable long after the judgment is entered. For example,

- Spousal support judgments are modifiable due to new facts or changed circumstances, unless the parties waive modifiability in writing.
- Child support judgments may be modified at any time until the subject child or children reach either 18 years of age or, if postmajority support is warranted, 19 ½ years of age, as the circumstances of the parents and benefit of the children require and for proper cause or change of circumstances.

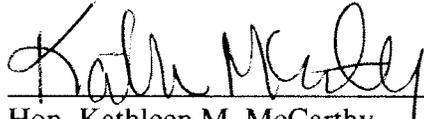
- Child custody judgments or orders are modifiable, if it is in the child's best interests, for proper cause shown or change of circumstances, including interstate orders over which the jurisdiction of Michigan courts is established.
- Parenting time orders may be modified unless the modifications would change the established custodial environment of a child; further, if the modification would change the established custodial environment of the child, it may be granted if there is clear and convincing evidence that such a change would be in the best interests of the child.
- A child's custody may be modified to allow grandparenting time when the facts establish that the grandparent requesting grandparenting time provided an established custodial environment for the child within the year preceding the grandparenting time action.

Whether modification may occur in any of the above types of actions turns on the facts and evidence presented to the court. As the circumstances of one or more of the parties involved will likely have changed from those existing on the date the judgment or order was issued, the evidence presented for purposes of finalizing the initial judgment or order will normally not suffice to determine whether modification should occur. New evidence must be presented so that the court will have sufficient basis for making a reasoned determination. When a postjudgment motion has been filed in a domestic relations action, allowing parties to obtain discovery under subchapter 2.300 of the Michigan Court Rules without first filing a motion for discovery with the assigned court will make the postjudgment modification processes more efficient for the court involved and less costly for the parties.

This Court has a substantial postjudgment domestic relations docket. Further, of the 6400 domestic relations motions filed with this Court from January 1, 2013, through the present, 5500 were postjudgment motions. Allowing discovery to occur in a case after a postjudgment motion is made without the need for a court order will give the judges of this Court more time to consider the substantive issues involved in those motions.

We appreciate the opportunity to express our support for the proposed amendment.

Sincerely,



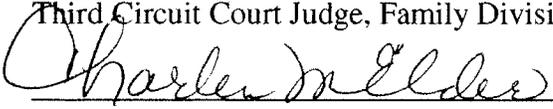
Hon. Kathleen M. McCarthy
Presiding Judge, Family Division
Third Circuit Court



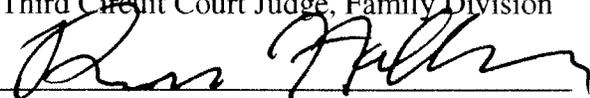
Hon. Eric W. Cholack
Third Circuit Court Judge, Family Division



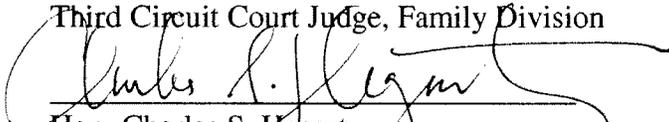
Hon. Kevin J. Cox
Third Circuit Court Judge, Family Division



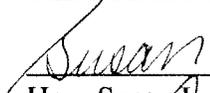
Hon. Charlene M. Elder
Third Circuit Court Judge, Family Division



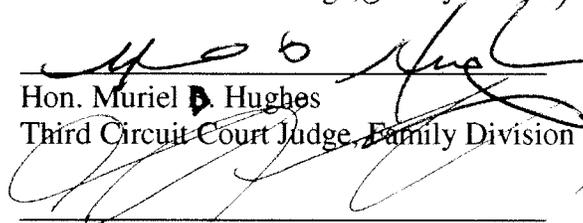
Hon. Richard B. Halloran
Third Circuit Court Judge, Family Division



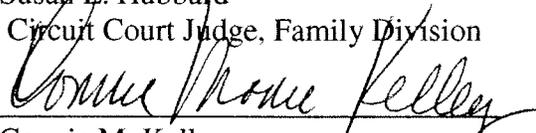
Hon. Charles S. Hegarty
Third Circuit Court Judge, Family Division



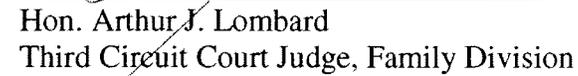
Hon. Susan L. Hubbard
Third Circuit Court Judge, Family Division



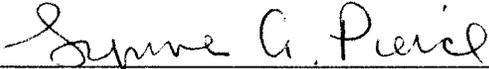
Hon. Muriel D. Hughes
Third Circuit Court Judge, Family Division



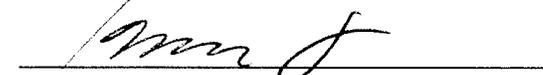
Hon. Connie M. Kelley
Third Circuit Court Judge, Family Division



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



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



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