IOSCO COUNTY
Office of Prosecuting Attorney
422 W. Lake Street
P.O. Box 548
Tawas City, Michigan 48764
989.362.6141
(fax)989.984.1106

Prosecuting Attorney
Nichol J. Palumbo

Assistant Prosecuting Attorneys
Elizabeth J. Schnettler
Brian J. Harger

April 10, 2014

Mr. Larry S. Royster
Clerk of the Court
Michigan Supreme Court
PO Box 30052
Lansing, MI 48909

RECEIVED
APR 11 2014
LARRY S. ROYSTER
CLERK SUPREME COURT

Re: ADM File No 2010-32
Proposed Amendments to MCR 3.210

Dear Mr. Royster:

I am writing to request that the Court revise subsection (B)(1) as follows:

> "*Default cases under the Family Support Act, MCL 552.451 et seq, the Uniform Interstate Family Support Act, MCL 552.1101 et seq, the Status and Emancipation of Minors Act, MCL 722.1 et seq, and the Paternity Act, MCL 722.711 et seq are governed by MCR 2.603.* This subrule applies to the entry of a default and a default judgment under all *other* cases governed by this subchapter."

I also request that subsection (E)(1) be re-written to state:

> "At a hearing *or at any other time if the case was filed under the Family Support Act, MCL 552.451 et seq, the Uniform Interstate Family Support Act, MCL 552.1101 et seq, the Status and Emancipation of Minors Act, MCL 722.1 et seq, and the Paternity Act, MCL 722.711 et seq,* any party may present to the court for entry a judgment approved as to form and content and signed by all parties and their attorneys of record."

These changes are necessary for reasons that appear below.

The Michigan Department of Human Services contracts with Prosecuting Attorney offices to litigate paternity and child support cases under Title IV-D of the federal Social Security Act. These matters are filed under the Family Support Act, MCL 552.451 et

seq, the Uniform Interstate Family Support Act, MCL 552.1101 et seq, the Status and Emancipation of Minors Act, MCL 722.1 et seq, and the Paternity Act, MCL 722.711 et seq. According to the Michigan Child Support Enforcement System, this office filed 929 of these cases during 2013. And they constitute a significant percentage of the Ingham County Circuit Court's domestic relations docket.

Over 90% of these paternity and child support cases were – or will be - resolved by entry of a default judgment (in cases where the defendant does not file an answer or otherwise appear) or a consent judgment (in cases where the defendant appears and agrees to our child support recommendation). In both circumstances, judgments and orders are submitted to the court for entry without a hearing. This office processes "paper" default judgments under MCR 2.603.

Under the proposed amendments to MCR 3.210, **all** of these matters must be scheduled for a formal hearing before a default judgment or consent judgment may enter. This requirement will necessitate **over 900** additional hearings in the Ingham County Circuit Court each year. This poses at least three significant problems. First, it will increase the work loads of already over-burdened judges, judicial assistants and Prosecuting Attorney employees. Second, the scheduling and completion of these hearings will delay the entry of judgments, and will probably extend these matters beyond the 147-day disposition deadlines that were established in Administrative Order 2013-12. Finally, I doubt that these hearings will be very meaningful because most of the defendants will not appear.

Based on the comments that are already on file, I believe that the drafters of subsections (B) and (E) were concerned about the consequences of a default for un-represented defendants in **divorce and child custody** cases. I do not question the legitimacy of these concerns. But they can be adequately addressed without including other types of domestic relations cases within the scope of the new default judgment and consent judgment procedures.

Thank you for your consideration. Please do not hesitate to call me directly at 989-362-6141 if you have any questions about the issues that I have raised in this letter.

Sincerely,

Brian J. Harger
Assistant Prosecuting Attorney
Family Support Unit