

LEGAL SERVICES ASSOCIATION OF MICHIGAN

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Kenneth Penokie

Secretary/Treasurer

Re: Proposed MCR 1.111 and 8.127

Dear Ms./Sir,

We're writing on behalf of the Legal Services Association of Michigan (LSAM) to comment on the proposed court rules, MCR 1.111 and 8.127. LSAM's members are the thirteen largest civil legal services organizations in Michigan.* Our member organizations collectively provide legal services to low-income individuals and families in over 50,000 cases per year.

The issue of language access to the courts is one that has been of interest to LSAM for many years. Many of our clients have limited English proficiency and, prior to accessing our services, struggle to obtain interpreter services in our state courts. Since our services are in civil cases and since most Michigan courts require civil litigants to provide their own interpreters, LSAM members see many LEP clients adversely affected by the current court practices.

We support the positions and supporting arguments offered in previous comments submitted to the Court, specifically those of the State Bar of Michigan (SBM) and the Michigan Coalition for Immigrant and Refugee Rights (MCIRR). As an additional point, we would like to comment on the frequently-heard argument that providing interpreters to litigants may be too expensive for local courts.

We believe cost concerns are not a justification for denying meaningful access to the courts for low-income individuals with limited English proficiency. However, we also believe the cost concerns are overstated. As recipients of federal funding, legal services programs have been required to have language access policies in place since 2004. Our policies are most like Alternative B under MCR 1.111(F)(4) – we provide access to everyone at our expense. The experiences of our members bear out that providing language access to all is not an unreasonable expense. One program (with seven offices that closes about 10,000 cases a year) reports Language Line interpretation fees of \$1106.00 during the

* LSAM's members are: the Center for Civil Justice, Elder Law of Michigan, Lakeshore Legal Aid, Legal Aid and Defender, Legal Aid of Western Michigan, Legal Services of Eastern Michigan, Legal Services of Northern Michigan, Legal Services of South Central Michigan, Michigan Indian Legal Services, Michigan Migrant Legal Assistance Program, Michigan Legal Services, Neighborhood Legal Services, and the University of Michigan Clinical Law Program.

period from June 1, 2011 through May 31, 2012. While this same program has had additional expenses from in-court interpreters, those costs have also been nominal. Another program reports interpretation costs averaging around \$5000 per year. Based on 8 years of experience, the costs associated with providing language access have not created a burden for our member organizations.

To summarize our positions, as supported by the SBM and MCIRR, we endorse:

MCR 1.111(A)(2)(a) through (c) “Certified foreign language interpreter”

MCR 1.111(A)(5) “Qualified foreign language interpreter”

We fully support the tiered credentialing of language interpreters and efforts to ensure that those with potential conflicts of interest do not serve as interpreters.

MCR 1.111(B) Appointment of a Foreign Language Interpreter

We support the adoption of Alternative B, which provides for the assignment of language interpreters for court operations, as well as in court proceedings, for all “parties of interest” as defined in the proposed rule.

MCR 1.111(F)(4) Appointment of Foreign Language Interpreters (compensation provisions)

We support the adoption of Alternative B which provides for court payment of all mandated language interpretation services. We further support the suggestion of the MCIRR that Alternative B be tie-barred with Alternative B to MCR 1.111(B) to prevent the undesirable chilling effect that the unknown costs of interpretation could drive individuals with limited English proficiency away from resolution of disputes in our courts.

MCR 1.111(G) Administration of Oath or Affirmation to Interpreters

We support deleting “so help you God” from the oath/affirmation. We further support the expanded oath/affirmation as suggested by the SBM.

Recommended addition to MCR 1.111

We support clarification that any participant may raise an objection to an interpreter at any time during the proceedings for the reasons offered by the State Bar and MCIRR.

MCR 8.127 Foreign Language Board of Review

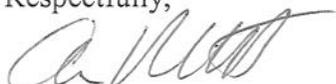
We support the creation of this board.

MCR 8.127(D) Interpreter Misconduct or Incompetence

We support all efforts to address and rectify interpreter misconduct and incompetence.

Thank you for this opportunity to comment on this important issue impacting access to justice.

Respectfully,



Ann L. Routt
Co-Chair



Michael C. Chielens by *AKR*
Co-Chair