



Macomb County Probate Court

Probate Judges:

JAMES M. BIERNAT, *Chief Judge*

KATHRYN A. GEORGE*

*Probate Judge assigned to Family Division

CARL J. MARLINGA

Deputy Court Administrator/Register

JOHN D. BRENNAN

June 30, 2016

VIA ELECTRONIC AND REGULAR MAIL

Michigan Supreme Court
Attn.: Supreme Court Clerk
P.O. Box 30052
Lansing, MI 48909

RE: ADM File No. 2013-18
Proposed Amendments to Probate Court Rules Regarding
Videoconferencing

To Whom It May Concern:

It has recently been brought to my attention that the comment period regarding the above proposed Probate Court Rule amendments on videoconferencing ends on July 1, 2016. I am writing to state that the use of videoconferencing in court proceedings is a great time/money saver to the Macomb County Probate Court system, and to the medical institutions treating the mental health patients. I certainly welcome the Supreme Court's efforts to increase the use of this technological advancement to make court proceedings more accessible for the parties involved.

The concerns that I have relate to the proposed changes in the Court rules involving the lack of an objection by a respondent in mental health proceedings as a proviso before videoconferencing can be allowed, and the requirement of obtaining consent by the proposed ward for guardianship/conservatorship probate proceedings. These requirements in our Court's opinion will greatly impact our Court's current videoconferencing use in the mental health area and certainly reduce its effectiveness in probate proceedings.

In this day and age where we in the Court system are trying to provide quality services to the public in an economical manner, the benefits of videoconferencing will be lost if the respondent in the mental health proceedings is allowed to determine in each matter if

June 30, 2016

Letter to Michigan Supreme Court

Page 2.

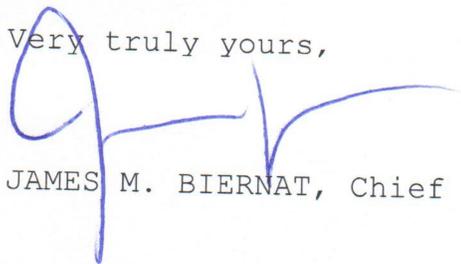
videoconferencing will be used by the Court. Also, the security concerns at the court house for the individuals and general public will be increased from requiring these wards to be transported to the court house.

Finally, in guardianship and conservatorship proceedings there are a number of medical issues which can effectively limit the individual from being able to provide the necessary consent, such as a Closed Head Injuries, Dementia, Alzheimer's, Stroke causing aphasia and inability to communicate effectively, or many other medical conditions impacting the individual's ability to understand the concept of consent. Even more so in minor guardianship proceedings an individual lacks "legal capacity" and cannot give an informed consent.

This Court can prevent these Probate Court rule amendment issues by removing the phrase "unless the subject of the initial petition does not consent to the use of videoconferencing technology" in MCR 5.119 (E)(1) & (2) and MCR 5.402(F); and striking from MCR 5.738a "(1) The subject of the petition does not object to the use of videoconferencing technology."

If you have any questions on this comment please do not hesitate to contact me at (586) 469-5836.

Very truly yours,



JAMES M. BIERNAT, Chief Judge