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July 30, 2014

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

Dear Clerk Royster:

At its July 25, 2014 meeting, the Board of Commissioners authorized the Civil Procedure & Courts Committee to submit its comments on **ADM File No. 2013-29 (Proposed Amendments of Rules 5.108, 5.125, 5.208, and 5.403 of the Michigan Court Rules)**.

The committee takes no position on the proposed amendments, but offers the following drafting comments:

- **MCR 5.108(B)(2)(a)**. This proposed sub-rule has nothing to do with service and so is misplaced. The committee suggests the currently proposed 5.108(B)(2)(b) to remain as the new 5.108(B)(2) and for currently proposed sub-rule (a) to be moved to Subchapter 5.400 (e.g., as new 5.402(F)).
- **MCR 5.125(C)(6)(c),(e)**. The provisions here making the locatability of the protected individual and ward a condition for their being interested persons is patterned off of 5.125(C)(27)(a). Although the failure to locate someone may excuse service in some instances, it does not (or should not) banish him or her from the ranks of interested persons. We have other rules to deal with this (see MCR 5.105(A)(3), which actually specifies publication service for an interested person whose whereabouts are unknown). Also, why pick on just protected individuals and wards and not other interested persons? The committee suggests the removal of “and can be located” from these two sub-rules and suggest the same for 5.125(C)(27)(a).
- **MCR 5.125(C)(19)(e), (22)(h), and (24)(f)**. Each of these provisions attempts to make an out-of-state guardian or conservator an interested person in guardianship or conservatorship appointment actions (if known by the petitioner or applicant). The strange thing is that when an out-of-state guardian applies for temporary appointment, he or she will be that interested person; this makes the conditional “if known by the...applicant” strange. The committee suggests the removal of “or applicant” in these sub-rules.

We thank the Court for the opportunity to comment on the proposed amendments.

Sincerely,



Daniel Quick,
Chair, Civil Procedure & Courts Committee