From: Howard, Brandon <BHoward@ingham.org>
Sent: Wednesday, March 30, 2016 8:52 AM
To: ADMcomment
Subject: ADM File No. 2014-28

Dear Michigan Supreme Court,

I am writing in response to the proposed amendment to MCR 2.403(G)(1). I support the amendment that the ADR Clerk's notice should contain the name of the evaluators and that parties should be notified if a substitute evaluator is appointed.

I do not support the time requirement of the notice being sent at least two business days before the hearing or the ADR Clerk will adjourn the hearing. Many times, case evaluators do not see a potential conflict or have a personal issue arise until a day or two before the hearing, so under the proposed amendment, these cases would need to be adjourned as there would not be a sufficient amount of time to get the notice out. Additionally, adjournment of the case evaluation hearing may result in the adjournment of pretrial and trial since pretrials are set about 30 days out from the case evaluation hearing and trial about 30 days out from pretrial. Adjournment of case evaluation under these circumstances could also cause many problems with creating a sequential schedule. We try to provide at least 30 minutes for each hearing so that each party may make their oral presentation, as required by 2.403(J)(3). Adjourning cases a couple of days before the hearing may result in gaps in the schedule for the case evaluators for that specific day. In particular, the times of the other hearings scheduled for that day would need to be changed to create a successive schedule for the evaluators and it can be difficult to move the schedule of multiple attorneys a couple of days before a hearing.

In my opinion, parties will more than likely stipulate to the evaluators at the hearing rather than adjourn to a later date. I believe that the time requirement and adjournment sections of the proposed amendment are unnecessary and have the potential to draw out litigation.

If the two day notice rule is adopted, it may be worth considering including an exception where, if after the case evaluation notice is served, and a substitution of a case evaluator takes place, the parties may waive the two day notice in writing at the time of the case evaluation hearing.

Respectfully,

Brandon Howard
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30th Circuit Court
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