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July 9, 2013
SENT VIA US MAIL

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

Re: Public Comment
Proposed Amendment of Rule 3.218 of the Michigan Court Rules
ADM File No. 2012-04

Dear Chief Justice and Justices of the Michigan Supreme Court:

I am writing this letter as a public comment to highlight an issue that has arisen in regards to recipients of Friend of the Court services. While I serve as a director on the Board of Directors of the Saginaw County Bar Association, I am making this public comment on my own behalf and not on behalf of our local bar association.

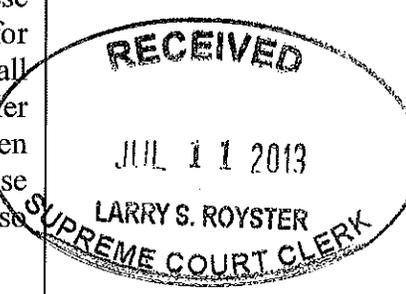
In my civil practice, I serve as counsel to various small businesses in the Great Lakes Bay Region. As general counsel, I occasionally am called upon to undertake collection actions against individuals who have refused to pay past-due debts. These collection actions usually only consist of a few hundred dollars in damages, but for small businesses, such unpaid debts are critical losses and jeopardize the small businesses' ability to continue serving their paying clients. Being of smaller amounts, debtors often hope that no legal action will be taken against them when they intentionally snub their obligations to pay as promised. From time to time, these debtors, who almost always become judgment-debtors by default judgments, are also recipients of the free services of the Friend of the Court.

In reviewing the proposed amendments to MCR 3.218, this Court, by its constitutional rulemaking authority, proposes as follows:

Friend of the court records are not subject to a subpoena issued under these Michigan Court Rules. Unless another rule specifically provides for the protection or release of friend of the court records, this rule governs.

It would seem contrary to the interest of justice as well as the principles of having the just, speedy, and economical resolution of issues to permit the recipient of taxpayer-supported Friend of the Court services to receive assistance from this

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judicial office while at the same time being able and having protection to intentionally and willfully ignore issued final judgments, typically and most often from the same local court system. In one wing of the courthouse, Friend of the Court is assisting such a judgment-debtor receive financial support and assistance from a third-party while at the same time this proposed rule would provide legal protection from fulfillment of valid judgments issued by the court from the other wing of the courthouse.

By way of example, my office represents a small but growing high-speed internet company. After providing internet services to a local woman, she simply stopped paying while the company, for a certain time, continued to provide services until it could no longer do so in good faith. After being served and not appearing, a default judgment was entered for failing to pay as promised and failing to appear before the local District Court as summoned. Since that time, this judgment-debtor has purposely and intentionally avoided legal efforts to fulfill the order of final judgment while at the same time has enjoyed the taxpayer-funded services of Friend of the Court to collect and enforce payments against her ex-spouse. The information needed to fulfill this judgment, including where she is currently residing, who her employer is, and what banking institution she uses, is within the Friend of the Court files.

Given this real-world example, it is my opinion and suggestion that this Court, by proposed Rule 3.218(A) not allow an absconding judgment-debtor to ignore the final orders and judgments of our courts while at the same time enjoy free judicial services from Friend of the Court, a judicial office.¹

As such, I would oppose the proposed language of MCR 3.218(A) as provided and would advocate for a sensible alternative rule directing and encouraging Friend of the Court to aid in the fulfillment and collection of final orders of the courts against the recipients of Friend of the Court services. If a person wishes to use Friend of the Court, it should not be given a free pass when intentionally ignoring the judgments and orders of our local courts.

Your time and attention to this issue is greatly appreciated.

Best regards,



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Attorney at Law

¹ Michigan law directs that the Friend of the Court is an office within the judiciary. See MCL 552.503