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To: ADMcomment
Subject: ADM File No: 2014-13

We would like to address the proposed amendment of MCR 2.403(L) shortening the period for written acceptance or rejection of a Case Evaluation Award from the current 28 days to a proposed 14 days.

We are Hom, Killeen, Arene, Hoehn & Bachrach, house counsel for the Auto Club of Michigan. Our firm consists of 43 lawyers who practice property and casualty trial law primarily in 5 counties of Southeast Michigan. We represent individual insureds who are being sued and we represent the Auto Club Group in first party litigation.

We ask that the court rule not be amended and offer in support of our request the following considerations:

- The current case evaluation process is not electronic and relies on hardcopy case evaluation briefs, exhibits, awards and responses. Transmission of hardcopy documents, even those scanned into electronic format, add significantly to the process. The Case Evaluation process has not received the benefit of electronic transmission which would justify shortening time frames for response. Indeed it is much the same as when the Case Evaluation process was first added to the Michigan Rules of Court.
- Shortened time frames will disproportionately impact higher value litigation which requires more due diligence prior to acceptance or rejection of awards. Reduced time frames will result in more rejections especially in first party no-fault litigation with its a) increased medical provider litigation, (b) Medicare and Medicaid involvement, (c) allocation of damages pursuant to the Court of Appeals decision in Covenant, and (d) increased involvement of reinsurers such as the MCCA.
- Increased rejections come with increased exposure to attorney fee penalties. That increased exposure will fall primarily and disproportionately on higher value cases. It is not clear what occasions this change in the court rules that will likely increase higher exposure. The fundamental process as not changed since first incorporated into the Michigan Rules of Court.

Finally we note that as a general rule that Michigan Court Rule procedures that may result in a dispositive ruling have a 28 day time period. The time period for Case Evaluations acceptance or rejection will be an exception to that general rule.

Thank you for the opportunity to offer our comments and your consideration.

Clair W Hoehn

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