

July 11, 2017– Dick Halloran - via email – made a motion for the section to pay \$2,500 to sponsor the Family Law Institute in November. The motion was seconded by Sahera Housey. The motion passed 20 in favor. 1 did not vote.

July 14, 2017– Chris Harrington - via email – made the following motions:

Motion #1: To support the following MRPC and MCR modifications, as currently drafted in the ADM File.

MRPC 1.0 would add a definition for “confirmed in writing” and “informed consent” in the “Comments” section. Committee recommends that Council supports these definitions as currently drafted.

MRPC 4.3 is modified to include a provision clarifying that clients under Limited Scope Representation (LSR) are not self-represented persons for the issues that fall within the LSR notice.

MCR 2.117(D) clarifies that an attorney who assists with document/pleading prep, but does not sign the documents, is not deemed to have filed an Appearance.

MCR 6.001 exempts these rules from criminal cases.

Motion #2:

MRPC 1.2 provides the basis for “Scope of Representation.” The proposal has two alternatives to modify this rule.

Alternative A would allow LSR if “reasonable under the circumstances” and “client gives informed consent, preferably confirmed in writing.”

Alternative B would require informed consent in writing, unless one of four specific exemptions applied.

While there is an element of vagueness to Alternative A, this seems to allow for more discretion, rather than pigeon-holing only four specific instances that confirmation in writing could be exempted. This is more of a catch-all approach.

Both alternatives would require a statement that **“This document was drafted or partially drafted with the assistance of a lawyer licensed to practice in the State of Michigan, pursuant to Michigan Rule of Professional Conduct 1.2(b)”**

Motion request: (1) approve “Alternative A” for confirmation in writing; (2) redact the required statement that a lawyer assisted with drafting the document.

Motion #3:

The modifications to MRPC 1.2 do not, but should, include a cross-reference to a modification of MRPC 1.4 “Communication with Client”. This modification to MRPC 1.4 should clarify that an LSR attorney is not violating his ethical duties if he/she does not communicate with the client regarding the non-LSR issues. This is particularly important because the Court Rules under this proposal require service of pleadings and documents on the LSR attorney, even if it is for documents that are not related to the LSR issues. The Self-Represented Litigant Ad Hoc Committee believed this could just be addressed in the engagement letter. However, the engagement letter must comport with the rules of ethics. There is potential (“likely”) malpractice risk here if the “MRPC 1.4 Communication” provisions are not changed.

Motion request: add a “friendly amendment” to ADM File 2016-41 which modifies MRPC 1.4 to clarify that it is ethical to not communicate with a client on non-LSR issues.

Motion #4:

MRPC 4.2 would be modified so that if a person is under LSR, opposing counsel would first have to contact their attorney to get authorization to speak to that litigant on the self-represented issues. The proposal does not require that the LSR attorney confirm this authorization in writing.

Motion request: approve the modifications as drafted, with the “friendly amendment” that the LSR attorney confirm “in writing” which issues can be addressed directly with the client.

Motion #5:

MCR 2.117(B) would allow the Court to “show cause” an attorney if they are found to be exceeding the scope of their representation. This would also allow opposing counsel to file a motion to clarify the scope of representation.

Motion request: strike the language of “show cause” and replace with “Status Conference”.

Motion #6:

MCR 2.117(C) is modified to outline the duration of an LSR attorney’s appearance. If the notice of withdrawal is signed by the client, the LSR attorney is immediately released from the case. If the client does not sign, it shall become effective 14 days after the LSR attorney files, unless the client files an objection. However, there is no timeline for when the objection hearing must take place. Mr. Cunningham and Ms. Hennessey state that it

can be difficult for judges when strict deadlines are imposed by the rules for hearings. On the flip side, attorneys can't be expected to have this so open ended. Some compromise seems appropriate.

Motion request: provide a 21 day deadline to hear the objection on withdrawal by an LSR attorney.

Motion #7:

The proposed modifications do not address MRPC 1.5 Fees, and it seems that this should at least be considered. Mostly our Committee thought it would be important to include language that it is "reasonable" or "not clearly excessive" to charge administrative costs for receipt/review of documents by an attorney when those documents fall outside of the LSR issues. In the worst case, the very nature of receiving documents on a matter on which you are "not representing" a client could potentially open an attorney up to malpractice risk. It seems this should be addressed in the rules.

Motion request: add a "friendly amendment" to MRPC 1.5 which would clarify that it is reasonable and not clearly excessive for LSR attorneys to charge an administrative fee for time spent on non-LSR issues.

Shelley Kester seconded the motion. Sahera made a friendly amendment and motion that first we would request that domestic relations be exempt from these modifications, like the criminal law provision. If that position is not accepted by the State Bar, in the alternative, we will ask for additional time to help with language specifically tailored to family law, and as a last resort, we would ask that they approve our comments for publication as outlined by Chris in his motion.

Chris accepted the friendly amendment. Shelley seconded. The motion with friendly amendment was approved by 19 and 1 opposed. 1 did not vote.

August 28, 2017– Dick Halloran - via email – pursuant to Section 6.10 of our By-Laws, at the request of more than six members of Council; Dick called a Special meeting of Council for August 29, 2017 at 5:30 PM at Jim Harrington's office, 42400 Grand River Ave, Suite 204, Novi, MI 48375. Council was allowed to participate by conference call. The special meeting was held on August 29, 2017. The following people attended in person: Dick Halloran, Kent Weichmann, Liz Bransdorfer, Christopher Harrington, Anthea Papista, Matt Catchick, Sahera Housey, Carlo Martina, Jennifer Johnsen, Kristen Robinson, Jim Chryssikos, and Jim Harrington. The following people attended by phone: Diana Raimi, Randy Velzen, Stephanie Johnson, Shelley Kester, Tina Yost, Bob Treat, Peter Kulas, Elizabeth Sadowski, and Vanessa Moss Wilson. The meeting was to discuss the status of HB 4691 and efforts to address the problems with the current bill. The various organizations all oppose HB 4691 and the reasons for opposition vary. Dick also discussed our continued efforts to work with the legislators

and have bill that is good for Michigan children and the families we serve. Dick also asked everyone to continue to work in submitting their thoughts and ideas.

September 7, 2017 – Steve Reinheimer – via email – made a motion for council to approve an expenditure of \$650 (\$1.30 each) for the purchase of 500 lapel pins as designed and approved by SBM. The motion was seconded by Liz Bransdorfer. The motion passed 15, the remainder of council not voting.

September 11, 2017 – Kent Weichmann –via email – The ad hoc committee on HB 4751 recommends that Council oppose the bill as written, and that it should be amended to consider presentation of a prenuptial agreement within a month of the wedding date as duress, to specifically require disclosure of assets in a Domestic Asset Protection Trust, and to add a section affirming that the statute does not limit the court's powers under MCL 552.23 or MCL 552.401. The motion was seconded by Liz Bransdorfer. The Motion passed. 14 voted in favor, 1 opposed and 2 abstained.