

**STATE BAR OF MICHIGAN  
SECTION ANNUAL REPORT**

**Bar Year:** 2011 – 2012

**Section Name:** Appellate Practice Section

**Report Prepared by:** Liisa R. Speaker

**Mission Statement:** The Appellate Practice Section of the State Bar of Michigan provides education, information and analysis about issues of concern through meetings, seminars, this site, public service programs, and publication of a newsletter. Membership in the Section is open to all members of the State Bar of Michigan. Statements made on behalf of the Section do not necessarily reflect the views of the State Bar of Michigan.

**Officers and Council Members:**

Officer	Name	Address	Telephone	Email
Chair	Liisa R. Speaker	Lansing	(517) 482-8933	lspeaker@speakerlaw.com
Chair-Elect	Phillip J. DeRosier	Detroit	(313) 223-3866	pderosier@dickinson-wright.com
Secretary	Stephanie Simon Morita	Farmington Hills	(248) 489-4100	smorita@jrsjlaw.com
Treasurer	Jill M. Wheaton	Ann Arbor	(734) 214-7629	jwheaton@dykema.com

Member	Term	Member	Term
Anthony F. Caffrey, III	9/30/2012	Judith A. Curtis	9/30/2012
Nancy Vayda Dembinski	9/30/2012	Ronald S. Lederman	9/30/2012
Stephen J. Rhodes	9/30/2012	Danielle C. Schoeny	9/30/2012
Graham K. Crabtree	9/30/2013	Lauren DuVal Donofrio	9/30/2013
Noel D. Massie	9/30/2013	Gerald F. Posner	9/30/2013
Beth A. Wittmann	9/30/2013	Geoffrey M. Brown	9/30/2014
Marilena David-Martin	9/30/2014	Stuart G. Friedman	9/30/2014
Gaetan Edward Alain Gerville-Reache	9/30/2014	Elizabeth L. Sokol	9/30/2014
Victor S. Valenti	9/30/2014	Barbara H. Goldman	Ex Officio
Christina A. Ginter	Ex Officio	Brandy Y. Robinson	Comm. Liaison
Megan K. Cavanagh	Immediate Past Chair		

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***Council Meeting Schedule:***

Meeting Type	Date	Location
Council Meeting	October 21, 2011	Farmington Hills
Council Meeting	November 18, 2011	Farmington Hills
Council Meeting	December 16, 2011	Phone meeting
Council Meeting	January 20, 2012	Farmington Hills
Council Meeting	February 17, 2012	Lansing
Council Meeting	March 16, 2012	Farmington Hills
Council Meeting	April 20, 2012	Farmington Hills
Council Meeting	May 18, 2012	Grand Rapids
Council Meeting	June 20, 2012	Brighton
Annual Meeting	September 20, 2012	Grand Rapids

**Section Membership:** 687

**General Budget Information:** YTD thru April 2012

Beg. Balance	\$24,115.33
Revenue	\$18,350.00
Expenses	\$10,449.09
<b>Ending Balance</b>	<b>\$32,016.24</b>

**Events and/or Seminars:**

Event or Seminar Title	Date	Location
New Circuit Court Appeal Rules	April 23, 2012	Webinar
Cloud Computing	March 2, 2012	Novi
Federal Practice Interlocutory Appeals	May 15, 2012	Plymouth

**Legislative issues:** None

**Court Rules/Policy Positions:**

**Proposed Amendment to MCR 7.205** –provide Appellants the right to file a reply when seeking leave to appeal.

**Comment on ADM File No. 2010-19 Proposed Amendment of Subchapter 7.100 of the Michigan Court Rules** – section voted unanimously to support the Amendment and recommended certain revisions.

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**Proposed Amendment to MCR 7.205, 7.105 and 7.111** – The section submitted the proposal to add a corollary proposal for the circuit court appeal rules, MCR 7.105 and 7.111, which were slated to go into effect on May 1, 2012.

**Comment on ADM 2010-15 (MCR 6.005)** – Facilitates and ensures that appellate counsel can obtain the record for a criminal appeal. Approved unanimously.

**Comment on ADM File No. 2010-25 – Proposed Amendment of MCR 7.210** – Section votes unanimously to support the Amendment which states what happens to the record on appeal when no appeal is filed, but does not address trial court's obligation when a claim of appeal is filed.

**Comment on ADM File No. 2016-26 – Proposed Amendment of MCR 7.210 & MCR 7.212 Settling Record on Appeal** – Section voted to support Amendment but raised concerns about the existing rules and proposed rules on the settled record.

**Comment on ADM File No. 2006-47 - Proposed Amendment of Court Rules regarding Electronic Records** – Bringing attention to the conflict in the proposed amendment to MCR 2.518.

**Comment on ADM File No. 2011-30 - Proposed Amendment of MCR 5.801 and MCR 7.100 et seq – Probate Appeals** – Section's proposed revisions do not alter intent of ADM 2011-30, but instead address concerns raised regarding jurisdictions and clarify the intent of the final order rule.

**Proposed Amendment to MCR 7.100 et seq** – Proposes amending to address some minor errors that one member discovered in the Circuit Court Appeal Rules adopted by this Court ADM order 2010-19.

### **The Section is currently working on:**

Proposed Amendment to 7.317 (Adopting unpublished opinion of Court of Appeals)  
Proposed Amendment to 7.205(F) (Delayed application)  
Proposed Amendment to 7.202 & 7.203 (Final order rule in domestic relation cases)  
Comment on ADM 2011-10 Proposed Amendment to MCA 7.118 (Appointed counsel for Michigan parole board appeals)

### **Committee Reports:**

**Michigan Court Practice** - The Michigan Court Practice Committee met with and proposed possible court rule changes to the Court of Appeals' Rules Committee with respect to unpublished opinions – both the use of unpublished opinions as supplemental authority as well as allowing third parties to request publication. This discussion was prompted in large part on comments and feedback during the APS annual meeting in September 2011.

**Federal Court Practice** – The Federal Practice Committee sponsored a seminar on May 15, 2012 regarding federal interlocutory appeal practice. Judges and court staff from the 6<sup>th</sup> Circuit came to speak and we had approximately 60 people attend. The Committee is currently reviewing proposed changes to the Sixth Circuit local rules.

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**Court Liaison/Rules Comment** - The Court Liaison/Rules Comment Committee reviewed and advised Council on the Supreme Court proposed amendments of the court rules governing circuit court appeals (MCR 7.101 et seq.) The Committee prepared an analysis of the proposed amendments that the Supreme Court adopted on December 8, 2011 (effective May 1, 2012) reflected most of the Council's suggested changes. The Committee also reviewed and suggested revisions to several court forms prepared by the State Court Administrative Office for use in circuit court appeals brought under the new rules. As part of the new circuit court appeal project, the Section hosted a webinar, attended by more than 200 attorneys, judges, and court staff.

**Publications** - The Publication Committee published 3 issues of the Appellate Practice Newsletter, Winter 2012, Spring 2012 (forthcoming in May 2012), and will distribute the Fall issue no later than September 2012. The newsletters are available on the Section website

**Economics of Appellate Practice** – This Committee did not have a project this year as it presented a conference last year.

**Technology** - The Technology Committee sponsored a seminar on "cloud computing," addressing security of off-site storage and advantages of software as a service. We had light attendance, but a very engaged audience.

**Legislative Committee** – The Committee followed legislation related to or affecting appellate practice and advised Council on same.

**Bench Bar Conference Liaison** - The Committee continues to meet as it plans the upcoming Michigan Appellate Bench Bar Conference, scheduled for April 24-26, 2013.

**Good Deeds** - The Good Deeds Committee coordinated the contribution of \$1,500.00 to the Michigan Youth in Government. The Committee is also hosting a dinner for the Ronald McDonald house in Detroit on June 25, 2012. The Committee sent out an email to section members asking them to share instances of good deeds or community service they have been involved with. We will be featuring one of our section members in the next newsletter.

**Ad Hoc Committee on Probate Rules** - The committee worked in conjunction with representatives from the Probate and Estate Planning Section, the Michigan Judges' Association, the Michigan Probate Judges' Association and the Court of Appeals to modify the proposed amendment to the probate appeal rules contained in ADM 2011-30.

**Ad Hoc Committee on Record Production** - The Committee reviewed, commented on, and revised proposed amendments to MCR 7.210 in ADM 2010-25 and ADM 2010-26.

**Recommendations for next Council:** It was particularly helpful to our section's endeavors on proposed rules changes and comments to proposed rule changes for our section to have a presence at the Supreme Court Administrative Hearings. (Chair Liisa Speaker testified at each of the hearings). To that end, she recommends that we continue that practice and ensure that we have a section representative prepared to testify on rule changes.