

# JUDICIAL SECTION STATE BAR OF MICHIGAN

## MINUTES

March 13, 2020, 10:00 am  
Lansing, Michigan

1. **Call to Order**

The meeting was called to order at 10:07 am.

**PRESENT:** Judges John Tomlinson, Tom Slagle, Christopher Murray, Allie Maldonado, Pam Lightvoet, Lita Popke, Annette Berry, Tom Boyd, Jon Van Allsburg, Timothy Kelly, Ray Voet, Lisa Sullivan, David Murkowski. Attendance by phone: Judges Yates, Rick, and O'Brien. Also present: Milton Mack, Cami Pendell, and Janet Welch.

2. **Approval of Minutes**

Motion to approve minutes was made by Judge Popke and supported by Judge Lightvoet. All in favor, motion carried.

3. **Treasurer's Report**

Judge Tomlinson presented the treasurer's report. There was a discussion regarding mileage reimbursement and a cap on mileage reimbursement of \$200 per person as proposed by the state bar. There was also a discussion to provide the chair elect a \$1,000 stipend for registration, costs, and lodging for the state bar leadership conference.

Motion to approve a \$1,000 stipend for the chair elect for costs associated with the state bar leadership conference was made by Judge Murkowski, supported by Judge Berry. All in favor, motion carried.

Motion to approve the treasurer's report by Judge Kelly, supported by Judge Lightvoet. All in favor, motion carried.

4. **SCAO Report**

Milton Mack delivered the report from SCAO. Judge Mack introduced Tom Boyd as the new state court administrator.

Discussion moved to the court's response to the coronavirus. Anne Boomer from the supreme court has been asked to review and create emergency administrative orders addressing such topic as the suspension of jury trials, the emergency operation of the court with skeletal staffing, the implications of statutes and court rules pertaining to video conferencing and mandated person to person contact imbedded in statutes in court rules, and the suspension of time guidelines. There was a discussion to stay every case for purposes of time guidelines. Judge Murkowski thought that entering orders in every case throughout the state would be cumbersome and suggested that time guideline information be gathered but not published.

Judge Boyd commented that certain court rules hindered the use of utilizing video conferencing for hearings and expected the supreme court to address and expand the use of video conferencing through administrative order.

Judge Sullivan urged that all courts post their emergency rules and continue to update those emergency rules on their websites or through their local bar associations.

Cami Pendell, general counsel for the supreme court, discussed the judiciary's budget. Budget for the supreme court and the court of appeals has been presented to the legislature. The Michigan judiciary will see a 2% pay increase in October 2020, a 1% increase in April 2021, a 2% increase in October of 2021, and a 1% increase in April of 2022. The SOCC proposal to raise, by 5%, the Michigan Supreme Court salaries pends in the senate appropriates committee.

## 5. **State Bar Report**

Janet Welch delivered the report from the state bar. Ms. Welch discussed the emergency operations of the state bar during the pandemic. The state bar continues to be in direct and regular contact with both the supreme court and the State Court Administrative Office. The state bar is serving as a center of communication between attorneys and litigants. For the safety of members, discussions are ongoing regarding the suspensions of meetings in the state bar building, and the consideration of moving to virtual meetings for the representative assembly, which is required to meet two times per year.

Ms. Welch said that discussions regarding the issue of modification of the Code of Judicial Conduct pends in the representative assembly. The MPJA took no position on the proposal. The Michigan Judges Association took no official position, and the Michigan District Judges Association supported the proposed amendment to the Code of Judicial Conduct.

Concerns were expressed that the proposed amendment does not clearly define prohibited conduct and other resources, statutes, and entities were available to address conduct issues short of an amendment to the code of conduct. Judge Van Allsburg moved to oppose the amendment to the Michigan Code of Judicial Conduct, supported by Judge Berry. The motion

carried with no nays and one abstention. Chair Sullivan will pen correspondence explaining the council's opposition to the amendment, and support of the expansion of the definition of a "protected class."

**6. Association Reports**

**MJA**

**Judge Van Allsburg**

Judge Van Allsburg discussed several pieces of legislation considered by the Michigan Judges Association. Senate bill 792 contemplates an increase in the defined contribution the state makes to the judiciary's 401(k) plan. This legislation would provide parity in contributions between the judiciary and other state employees. Motion to support SB 792 was made by Judge Lightvoet, supported by Judge Van Allsburg, motion carried.

House bill 5442 increases the salary for district judges to be on par with other trial courts. Motion to support HB 5442 was made by Judge Berry, supported by Judge Lightvoet. The motion carried.

Judge Van Allsburg submitted a list of names to the Michigan Supreme Court to be named to the Justice for All Taskforce. Finally, the Michigan Judges Association has authorized the filing of an amicus brief to be filed in the court of appeals addressing the authority and discretion of a judge to reject a stipulation by prosecutor and defense counsel to withdraw a guilty plea. The Michigan Judges Association is concerned with the loss of discretion by the trial court in these matters.

**MPJA**

**Judge O'Brien**

Judge O'Brien cancelled the March 13 quarterly Michigan Probate Judges Association board meeting because of the coronavirus. Judge O'Brien has forwarded the names of members of the probate bench to serve on the Justice for All Taskforce. Judge O'Brien reminded everyone that the MPJA conference will be held at the Homestead Resort from June 28, 2020 through July 1, 2020.

**MDJA**

**Judge Timothy Kelly**

Judge Kelly thanked the members of the council and the judicial associations for their support of pay equity for the district court judges.

**7. Tribal Courts**

**Judge Maldonado**

Judge Maldonado brought to the council's attention the 6th Circuit Court of Appeals case *Joyce Spurr v. Melissa Lopez-Pope*, Chief Judge of Tribal Court of Nottawaseppi Huron Band of the Potawatomi, et al. The opinion underscores the power of Indian tribal courts to issue civil protection orders against any person in matters arising in the Indian country of the Indian tribe.

8. **President's Report**  
**Judge Sullivan**

Judge Sullivan received a request from the criminal law section to co-host a reception with multiple bar sections participating at the annual state bar conference in September of 2020. Janet Welch commented that the 2019 annual bar conference was run as a business meeting because of declining attendance and rising costs. After discussion, Chair Sullivan stated that she would communicate with the criminal law section and politely decline the invitation.

Judge Sullivan also discussed mandatory education for all judges within the state and the need to determine what programming will suffice as educational credit.

9. **New Business**

Janet Welch provided an update to the legal challenges to the mandatory membership in the state bar of Michigan.

10. **Electronic Vote Ratification**

On February 10, 2020, Chairperson Sullivan presented a motion to support the restructuring of the court of claims, as contained in Michigan HB 5304. Judge Lightvoet moved to support HB 5304 and Judge Rick seconded the motion. Voting closed on February 14, 2020. The following judges voted in support of HB 5304: Van Allsburg, McGraw, Rick, Lightvoet, Slagle, Voet, Popke, Yates, O'Brien, Stutesman, Fuca, Dobrich, Allen, Tomlinson, Burmeister, Anderson, Kelly, Brue, Berry, Murkowski, and Appel. No judge objected or abstained.

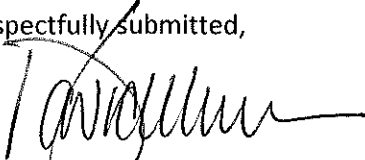
A motion to ratify the February 14, 2020 electronic vote was made by Judge Van Allsburg, supported by Judge Voet. The motion carried.

11. **Adjournment of Meeting**

Motion to adjourn was made by Judge Berry, supported by Judge Van Allsburg. The motion carried.

**NEXT MEETING DATE: JUNE 28, 2020 AT NOON, THE HOMESTEAD RESORT, GLEN ARBOR, MICHIGAN.**

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. Murkowski", written over the word "submitted" in the previous block.

Honorable David M. Murkowski, Secretary  
Judicial Council of the State Bar of Michigan  
Chief Judge, Kent County Probate Court