

To address this concern, subsection (A) of the proposed rule should be narrowed to clarify that the rule only applies in pending state court actions in which a party “is a named debtor in a bankruptcy proceeding.” Further, subsection (D)(1) should be modified to clarify that the requisite notice identify only a debtor and not the “officer, director, or major equity holder of a named debtor.”

My proposed edits to the proposed MCR 2.421, which were drafted jointly with Michael Leib, are set forth below:

[NEW] Rule 2.421 Notice of Bankruptcy Proceedings

- (A) Applicability. This rule applies to all pending state court actions in which a party is either: a named debtor in a bankruptcy proceeding.
- ~~(1) — a named debtor in a bankruptcy proceeding; or~~
- ~~(2) — an officer, director, or majority equity holder of a named debtor in a bankruptcy proceeding.~~
- (B) Party Subject to Bankruptcy Proceeding. Any named party in a pending state court action who is ~~or becomes subject to a named debtor in~~ a bankruptcy proceeding as provided in subrule shall (A) must file notice of the bankruptcy proceeding in the pending state court action no later than 7-3 days after becoming subject to such bankruptcy ~~proceedings~~ proceeding, and (ii) serve such notice on all other named parties in the pending state court proceeding.
- (C) Other Parties. If a party to a pending state court action learns ~~of a bankruptcy that another party in such~~ proceeding ~~described in subrule (A) and notice of the is a named debtor in a~~ bankruptcy proceeding and notice of the bankruptcy proceeding contemplated in subsection (B) has not previously been filed and served, ~~by the party that learned of the bankruptcy proceeding may file debtor, then such party shall~~ (i) file a notice of the bankruptcy proceeding in the pending state court action no later than 3 days after becoming aware of such bankruptcy proceedings and (ii) serve such notice on all other named parties in the pending state court proceeding.
- (D) Notice Contents. Notice of a bankruptcy proceeding filed under this rule must, at a minimum, include all of the following:
- (1) The name(s) of the ~~party debtor(s)~~ described in subrule (A) ~~and his or her designation as the named debtor, officer, director, or major equity holder of a named debtor;~~
 - (2) ~~the~~ The court name and case number ~~(s)~~ of the bankruptcy proceeding(s); and, if available,
 - (3) ~~the~~ The name, telephone number, physical address, and email address for the debtor’s attorney in the bankruptcy proceeding(s).
- (E) Service of Notice. Notice of a bankruptcy proceeding filed under this rule must

be served on all parties to the pending state court action as provided in MCR 2.107.

- (F) Effect of Notice. If a notice is filed under this rule, the court ~~may~~shall, on the motion of a party or on its own initiative, ~~order schedule a status conference to consider~~ the administrative closure of all or a portion of the state court proceeding. ~~To the extent that all or a portion of~~ the state court action ~~or set the matter for a status conference to determine if the case is subject to an automatic stay. If the state court action has been~~ is administratively closed under this subrule or otherwise, it may be reopened if, on the motion of a party or on the court's own initiative, the court determines that the automatic bankruptcy stay has been lifted, removed, or otherwise no longer impairs adjudication of all or a portion of the state court proceeding.

Again, thank you for your efforts with respect to this court rule. With the proposed revisions set forth above, MCR 2.421 will provide a great service to the bench and the bar, in that it will help all parties identify and promptly address issues related to the automatic stay in state court litigation involving a debtor in bankruptcy, while avoiding the confusion that would be occasioned by requiring the filing of a notice in cases where the stay is clearly not triggered.

Please do not hesitate to contact me if I can be of further assistance.

Very truly yours,

Taft Stettinius & Hollister, LLP

Paul R. Hage

Paul R. Hage

[LETTERHEAD FOR BUSINESS LAW SECTION]

March __, 2023

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

VIA ELECTRONIC MAIL
ADMcomment@courts.mi.gov

Re: ADM file No. 2021; Proposed New Michigan Court Rule 2.421

Justices of the Michigan Supreme Court,

On behalf of the Debtor-Creditor Rights Committee of the Business Law Section, I write to provide comments with respect to proposed new Michigan Court Rule 2.421 (“Rule”) that seeks to require litigants in pending state court litigation to give notice to the court when a litigant becomes a debtor subject to a bankruptcy proceeding under 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”).

I, along with Marc N. Swanson, are the Co-Chairs of the Debtor-Creditor Committee of the Business Law Section of the State Bar of Michigan (the “Committee”). Elliot Crowder and Paul R. Hage are the Co-Vice Chairs of the Committee and Judy B. Calton is the Emeritus Chair of the Committee. The Committee is comprised of approximately 500 members who specialize and regularly practice in the areas of debtor-creditor rights, insolvency, and reorganization. As such, the Committee and its members have a significant amount of knowledge and expertise in the notice proposed by the Rule and the potential impact and unintended consequences that the Rule is likely to have if it is adopted in its current form.

The Committee applauds the Court for proposing a rule that requires that notice be provided to the state court and litigants involved in a pending state court action when a party to that action commences a bankruptcy case. While such a requirement has informally existed for years, it is useful to expressly require that a debtor (and, if the debtor fails to do so, a non-debtor) provide notice of a bankruptcy filing to the state court and litigants. This will help ensure that claims that should be stayed due to a bankruptcy filing are, in fact, promptly stayed. It will also help ensure that issues with respect to the scope of the automatic stay are promptly identified and addressed.

The Committee and its members have reviewed the Rule and recognize that a number of individual attorneys, including Michael Leib, Paul Hage, Marc Landau, David Findling, and Trent B. Collier, have each submitted comments to you about the Rule, copies of which are attached as **Exhibit A**. In addition, the Board of Commissioners of the State Bar of Michigan (“Board of Commissioners”) has endorsed the position espoused by Trent B. Collier, as reflected in the letter attached as **Exhibit B**. All of the comments submitted make clear and reiterate the concerns of the members of the Committee that by requiring the giving of notice beyond the filing of a bankruptcy is overbroad and likely to result in a state court staying pending state court litigation against parties who are not entitled to the protection of the automatic stay contained in Section 362 of the Bankruptcy Code. Thus, instead of providing clarity about the scope of the

automatic stay, the Rule, as proposed, will only increase the confusion that already exists with respect to the impact of a bankruptcy filing on non-debtor entities. This confusion stems from the requirement in the Rule that a notice of bankruptcy filing must be filed when a party in a pending state court action is “an officer, director, or majority equity holder of a named debtor in a bankruptcy proceeding.” *See* Proposed MCR 2.421(A)(1)-(2).

The Committee supports the proposed revisions of the Rule suggested by Paul R. Hage in his letter attached as **Exhibit B**. We also believe that his suggested revisions are consistent with the position articulated by Trent B. Collier and endorsed by the Board of Commissioners. Adoption of the Rule in the revised form will provide a great service to the bench and the bar, in that it will help all parties identify and promptly address issues related to the automatic stay in state court litigation involving a debtor in bankruptcy, while avoiding the confusion that would be occasioned by requiring the filing of a notice in cases where the stay is clearly not triggered.

Thank you for your consideration of these comments. If you have any questions or need additional information, we would be happy to respond.

Sincerely yours,

Judith Greenstone Miller
Co-Chair, Debtor-Creditor Rights Committee
of the Business Law Section of the State Bar of Michigan

JGM/jgm

Encl.

cc: Marc N. Swanson (Via Email)
Paul R. Hage (Via Email)
Elliot Crowder (Via Email)
Judy B. Calton (Via Email)
Michael Leib (Via Email)
Trent B. Collier (Via Email)
Mark Kellogg (Via Email)

Order

Michigan Supreme Court Lansing, Michigan

October 26, 2022

Bridget M. McCormack,
Chief Justice

ADM File No. 2021-50

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh
Elizabeth M. Welch,
Justices

Proposed Addition of Rule
2.421 of the Michigan
Court Rules

On order of the Court, this is to advise that the Court is considering an addition of Rule 2.421 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the [Public Administrative Hearings](#) page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[NEW] Rule 2.421 Notice of Bankruptcy Proceedings

~~(A)~~ Applicability. This rule applies to all pending state court actions in which a party is ~~is either:~~

~~(3)(A)~~ a named debtor in a bankruptcy proceeding ~~or~~

~~(4) an officer, director, or majority equity holder of a named debtor in a bankruptcy proceeding.~~

(B) Party Subject to Bankruptcy Proceeding. Any named party in a pending state court action who is a debtor in or becomes subject to a bankruptcy proceeding shall as provided in subrule (A) must file notice of the bankruptcy proceeding in the pending state court action no later than 7 days after becoming subject to such bankruptcy proceedings and (ii) serve such notice on all other named parties in the pending state court proceeding.

(C) Other Parties. If a party to a pending state court action learns that another party in such proceeding is a named debtor in a bankruptcy proceeding, described in subrule (A) and notice of the bankruptcy proceeding contemplated in subsection (B) has not previously been filed and served by the debtor, then such party that learned of the bankruptcy proceeding shall may file a notice of the bankruptcy proceeding in the pending state court action and serve such notice on all other named parties in the pending state court proceeding.

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(D) Notice Contents. Notice of a bankruptcy proceeding filed under this rule must, at a minimum, include all of the following:

~~(1) (1) name(s) of the party debtor(s) described in subrule (A) and his or her designation as the named debtor, officer, director, or major equity holder of a named debtor;~~

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~~(2) (1) the court name and case number(s) of the bankruptcy proceeding(s); and, if available,~~

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~~(3) (2) the name, telephone number, physical address, and email address for the debtor's attorney in the bankruptcy proceeding(s).~~

- (E) Service of Notice. Notice of a bankruptcy proceeding filed under this rule must be served on all parties to the pending state court action as provided in MCR 2.107.
- (F) Effect of Notice. If a notice is filed under this rule, the court may shall, on the motion of a party or on its own initiative, schedule a status conference to consider the order—the administrative closure of all or a portion of the state court proceeding, action or set the matter for a status conference to determine if the case is subject to an automatic stay. To the extent that all or a portion of ~~if~~ the state court action has been administratively closed under this subrule or otherwise, it may be reopened if, on the motion of a party or on the court's own initiative, the court determines that the automatic bankruptcy stay has been lifted, removed, or otherwise no longer impairs adjudication of all or a portion of the state court proceeding.

Staff Comment (ADM File No. 2021-50): The proposed addition of MCR 2.421 would address notice of a bankruptcy proceeding that affects a pending state court action.

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The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by February 1, 2023 by clicking on the "Comment on this Proposal" link under this proposal on the [Court's Proposed & Adopted Orders on Administrative Matters](#) page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When submitting a comment, please refer to ADM File No. 2021-50. Your comments and the comments of others will be posted under the chapter affected by this proposal.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

Larry S. Royster

October 26, 2022

Clerk

Order

Michigan Supreme Court
Lansing, Michigan

October 26, 2022

Bridget M. McCormack,
Chief Justice

ADM File No. 2021-50

Proposed Addition of Rule
2.421 of the Michigan
Court Rules

Brian K. Zahra
David F. Viviano
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Elizabeth M. Welch,
Justices

On order of the Court, this is to advise that the Court is considering an addition of Rule 2.421 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the [Public Administrative Hearings](#) page.

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[NEW] Rule 2.421 Notice of Bankruptcy Proceedings

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- (1) a named debtor in a bankruptcy proceeding; or
 - (2) an officer, director, or majority equity holder of a named debtor in a bankruptcy proceeding.
- (B) **Party Subject to Bankruptcy Proceeding.** Any party in a pending state court action who is or becomes subject to a bankruptcy proceeding as provided in subrule (A) must file notice of the bankruptcy proceeding in the pending state court action no later than 7 days after becoming subject to bankruptcy proceedings.
- (C) **Other Parties.** If a party to a pending state court action learns of a bankruptcy proceeding described in subrule (A) and notice of the bankruptcy proceeding has not previously been filed and served, the party that learned of the bankruptcy proceeding may file notice of the bankruptcy proceeding in the pending state court action.
- (D) **Notice Contents.** Notice of a bankruptcy proceeding filed under this rule must, at a minimum, include all of the following:

- (1) name(s) of the party described in subrule (A) and his or her designation as the named debtor, officer, director, or major equity holder of a named debtor;
 - (2) the court name and case number of the bankruptcy proceeding; and, if available,
 - (3) the name, telephone number, physical address, and email address for the debtor's attorney in the bankruptcy proceeding.
- (E) Service of Notice. Notice of a bankruptcy proceeding filed under this rule must be served on all parties to the pending state court action as provided in MCR 2.107.
- (F) Effect of Notice. If a notice is filed under this rule, the court may, on the motion of a party or on its own initiative, order the administrative closure of the state court action or set the matter for a status conference to determine if the case is subject to an automatic stay. If the state court action has been administratively closed under this subrule or otherwise, it may be reopened if, on the motion of a party or on the court's own initiative, the court determines that the automatic bankruptcy stay has been lifted, removed, or otherwise no longer impairs adjudication.

Staff Comment (ADM File No. 2021-50): The proposed addition of MCR 2.421 would address notice of a bankruptcy proceeding that affects a pending state court action.

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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 26, 2022

Clerk

LAW SCHOOLS COMMITTEE
REPORT PREPARED FOR THE MARCH 9, 2023 COUNCIL MEETING

- 1. Next Scheduled Meeting of the Committee.**
Next scheduled meeting of the Committee: No meeting is scheduled.
- 2. Council Approval.**
No matters require Council approval.
- 3. Membership.**
The Committee communicates with members via e-mail to student leaders in the business law societies, their faculty advisors and attorney liaisons.
- 4. Accomplishments Toward Committee Objectives.**
The Committee is achieving its goals. We are increasing the awareness of the Section among law students and promoting the benefits of Section membership.
- 5. Meetings and Programs.**
Now that schools and potential activities have opened back up post-pandemic, I have specifically been in contact with student members of the Wayne State Business Law Society above scheduling a program or event. I am also in the process of reaching out to Business Law Societies (or similar organization) at other Michigan Law Schools.
- 6. Publications.**
We have published no articles at this time.
- 7. Methods of Monitoring Legislative/Judicial/Administrative Developments and Recommended Action**
We do not regularly monitor decisions or activities in the Michigan legislature of the U.S. Congress.

Respectfully submitted,
Mark E. Kellogg, Committee Chair
Fraser Trebilcock Davis & Dunlap, P.C.
124 W. Allegan St., Suite 1000, Lansing, MI 48933
(517) 482-5800
(517) 377-0890 (direct)
(517) 482-0887 (fax)
mkellogg@fraserlawfirm.com

Date of Report: March 3, 2022

**LLC & PARTNERSHIPS COMMITTEE
REPORT PREPARED FOR THE MARCH 9, 2023 COUNCIL MEETING**

1. Next Scheduled Meeting of the Committee.

No meetings as a full Committee are currently scheduled.

2. Council Approval.

The Committee does not request Council approval of any matters at this meeting.

3. Membership.

The Committee remains open to any Business Law Section members who wish to participate. The Committee has several members on its roster. The Committee is planning a communication to its members in March 2023 to discuss ideas for a potential program in the fall and also for a review of the Michigan Limited Liability Company Act.

4. Meetings and Programs.

The Committee is planning a program event for the fall, possibly September. The Committee envisions speakers discussing the most important case law and statutes on LLCs. The Committee is at the planning stage for this program.

Additionally, the Committee is undertaking a review of the Michigan Limited Liability Company Act to determine whether to recommend that the legislature adopt any updates/amendments to the act. The Committee is at the planning stage for this review.

Respectfully submitted,

Loukas P. Kalliantasis
Committee Co-Chair
Clark Hill PLC
151 S Old Woodward Ave., Ste. 200
Birmingham, MI 48009
248.988.5859
lkalliantasis@clarkhill.com

Gerard V. Mantese
Committee Co-Chair
Mantese Honigman, PC
1361 E. Big Beaver Rd.
Troy, MI 48083
248.457.9200
gmantese@manteselaw.com

PRIVATELY HELD BUSINESSES FORUM
{f/k/a Small Business Forum}
A Committee of the State Bar of Michigan Business Law Section

***QUARTERLY REPORT PREPARED FOR THE MARCH 9, 2023 MEETING OF
THE COUNCIL***

1. Next Scheduled Meeting of the Committee/Directorship.

April 18, 2023, 5:30 p.m.
Offices of Rossman, P.C., 2145 Crooks, Suite 220, Troy
Zoom Attendance Available (link to be sent)

2. Council Approval.

The Forum respectfully requests that the Council authorize and approve the contribution of an additional \$4,792.12 toward the cost and expense of the Business Law Symposium, which sum represents the amount of the Business Law Symposium costs that exceeded the revenue generated by the program through sponsorship and registration. More specifically, and as shown in the attached Revenue and Expense Report (Addendum I), the requested sums would cover the shortfall that we presently have with the Detroit Institute of Arts Culinary, the travel and lodging expenses of Professor Douglas Moll, who travelled from the University of Houston Law Center to speak at the Symposium, and the program and print designer, Sarah Bommer Productions. These expenses have been submitted to the Section through the formal channels and are presently pending. Given the substantial interest that the Symposium has been generating among the BLS membership, the Forum submits that the additional contribution is a worthy investment in the program, which, again, this year, for the second year in a row, generated over 150 registrants, in person and virtual. The Forum thanks the Council in advance for its consideration of this request.

3. Membership.

As of the date of this submission, the membership of the Forum is presently at 59 members. An Official Role is maintained in the offices of the Co-Chairs and it is reviewed at the Annual Meeting each year. The Membership also formed a LinkedIn Group, which communicates regularly about events of the Forum as well as current events and opportunities for continued learning. The Forum seeks to increase membership through cross-relationships with other Sections.

4. Accomplishments Toward Committee/Directorship Objectives. The PHBF's principal objectives and endeavors to achieve them consist of the following:

- 1) *Production of various programs throughout the year concerning different facets of law and its application in the context of privately held businesses.*

- a) On Thursday, February 23, 2023, at 4:00 p.m., the Forum produced a virtual program called “The Corporate Transparency Act Mandatory Federal Reporting Requirements for ‘Mom and Pop’ Businesses”. The focus of this one-hour virtual program was on the upcoming requirements for privately held small businesses who are defined as "reporting companies" and are required to file personally identifiable information in the form of a "Beneficial Ownership Report" with the U.S. Department of Treasury's Financial Crimes Enforcement Network (FinCEN). The requirements apply to newly formed entities starting on January 1, 2024, and phase in for existing entities by January 1, 2025. Mark High, of Dickinson Wright, and Alexis Lupo, Corporations Division Director of LARA, both of whom have written on this topic, spoke at the program with moderator Sharan Levine of Levine & Levine, presenting examples, issues, and suggestions about managing the Act's requirements for clients and firms. Registration exceeded 150.
- b) The 5th Annual Symposium, “The Art of the Practice”, was held in the Diego Rivera Court and Great Room at the Detroit Institute of Arts on Thursday, February 16, 2023. The Symposium explored various aspects of litigation practice, law firm management, and select substantive areas of law. The format consisted of lectures and roundtables, with audience participation. Topics discussed included the “arts” of selecting experts, settling cases, navigating the Business Courts, cross examination, law firm management, intellectual property protection and corporate oppression and fiduciary breach. Presenters and moderators included:

Hon. Victoria Valentine (Oakland County Circuit Court)

Hon. Lita Popke (Ret. Wayne County Circuit Court) (JAMS)

Hon. David J. Allen (3rd Circuit Court)

Professor Douglas Moll (University of Houston Law Center)

Van Conway (Van Conway & Partners)

Maxwell Goss (Maxwell Goss Law / Litigation War Room)

Michelle Harrell (Maddin Hauser)

Justin Klimko (Butzel)

Paul Mersino (Butzel)

E. Powell Miller (Miller Law)

Linda Oszust (Rossman)

Daniel Quick (Dickinson)

Mark Rossman (Rossman)

Ian Williamson (Mantese Honigman)

- 2) *Young Lawyers Initiative*. Historically, the Committees have not had great success in attracting young lawyers to the programs. In order for the Committees to thrive, the newer generation of lawyers must be encouraged and invited to join. The Forum therefore extends its outreach to law students by maintaining close ties with the Wayne State University Law School Business Law Journal, which sponsors the symposium each year. Dozens of law students from different law schools attended the symposium remotely and in person each year, and two of the symposia were held at WSU Law School. We are also coordinating with the Young Lawyers Section.

5. Meetings and Programs.

The Forum may hold another virtual program in the fall to help lawyers assist their clients in fulfilling the requirements of the CTA.

The 6th Annual Symposium will be held in February 2024, and the focus will be on the Federal Bench. Logistics and budgets are presently being worked out.

6. Publications.

The Forum's publications consist of the digital material created and produced in connection with its programs, which are available online.

7. Methods of Monitoring Legislative/Judicial/Administrative Developments and Recommended Action

The Forum does not have any method in place at the present time.

8. Miscellaneous.

The Forum thanks the Business Law Section Administration and Council for their support of the Symposium and for processing the various requests for coordination along the way.

Respectfully submitted,

/s/ Sharan Lee Levine
Levine & Levine
136 E Michigan Ave Ste 1400
Kalamazoo, MI 49007-3920
(269) 382-0464
slevine@levine-levine.com

Co-Chair of the Privately Held
Businesses Forum

/s/ Mark C. Rossman
Rossman, P.C.
2145 Crooks Road, Suite 220
Troy, Michigan 48084-5539
248.385-5481, ext. 103
mark@rossmanpc.com

Co-Chair of the Privately Held
Businesses Forum

Report Date: March 2, 2023

**ADDENDUM I
SYMPOSIUM PROGRAM ACCOUNTING TABLES**

| SYMPOSIUM EXPENSES | | | | |
|---------------------------|---|--|------------------------|----------------------------------|
| Date | Description | | Amount Incurred | Notes |
| | Situs and Production – DIA | | | |
| 11/2/2022 | Diego Rivera Court | | \$5,000 | |
| 2/15/2023 | Great Hall | | \$5,000 | |
| | Food and beverage (Culinaire) | | \$23,018.00 | \$10,018.00 due and owing |
| | DIA AV Costs | | \$245.00 | |
| | AVL – Sound and Stage | | 11,490.06 | |
| | Total Location Cost | | \$44,753.06 | |
| | Promotion and Printing | | | |
| | Printing Costs – Foam Boards | | \$528.00 | |
| | Printing Costs – Programs | | \$300.00 | |
| | S. Bommer Productions | | \$537.50 | Balance outstanding |
| | Total Production and Promo Costs | | \$1,365.50 | |
| | Transportation & Lodging for D. Moll | | | |
| | Moll – Airfare | | \$352.20 | |
| | Moll – Lodging | | \$708.81 | |
| | Moll – Car | | \$126.78 | |
| | Moll – Incidentals | | \$140.77 | |
| | Total D. Moll Costs | | \$1,328.56 | Balance outstanding |
| | Total Symposium Costs | | \$47,447.12 | |

**SYMPOSIUM REVENUE
SPONSORSHIP REVENUE**

| Sponsor | Contribution Level | Amount | Paid? | Notes |
|--|---------------------------|------------------------|-------------------------------------|---------------|
| State Bar of Michigan | -- | \$10,000 | <input checked="" type="checkbox"/> | |
| Miller Law | Diego Rivera Court | \$6,000 | <input checked="" type="checkbox"/> | |
| JAMS | Shareholder | \$1,000 | <input checked="" type="checkbox"/> | |
| Warner Norcross + Judd | Officers | \$2,000 | <input checked="" type="checkbox"/> | |
| Butzel Long | Shareholder | \$1,000 | <input checked="" type="checkbox"/> | |
| Crawford & Winiarski Financial | Shareholder | \$1,000 | <input checked="" type="checkbox"/> | |
| Rossmann, P.C. | The Great Room | \$5,000 | <input checked="" type="checkbox"/> | |
| Flagstar Bank | Shareholder | \$1,000 | <input type="checkbox"/> | "In the mail" |
| Maddin Hauser | Shareholder | \$1,000 | <input checked="" type="checkbox"/> | |
| Dismondy, P.C. | Registered Agent | \$500 | <input checked="" type="checkbox"/> | |
| Van Conway & Partners | The Great Room | \$2,500 | <input checked="" type="checkbox"/> | |
| Dickinson Wright | Shareholder | \$1,000 | <input checked="" type="checkbox"/> | |
| Taft Law | Registered Agent | \$500 | <input checked="" type="checkbox"/> | |
| Sikora Law Firm | Registered Agent | \$500 | <input checked="" type="checkbox"/> | |
| Honigman | Officers | \$2,000 | <input checked="" type="checkbox"/> | |
| Matson Driscoll & Damico | Registered Agents | \$500 | <input checked="" type="checkbox"/> | |
| Vida Law Group, PLLC | Registered Agents | \$500 | <input checked="" type="checkbox"/> | |
| TOTAL SPONSORSHIP CONTRIBUTIONS | | <u>\$36,000</u> | | |

REGISTRATION REVENUE

| Type of Ticket | Count | Revenue | | |
|---|---|------------------------|--|--|
| In-Person | 48 | \$6,480.00 | | |
| Virtual | 7 | \$175 | | |
| TOTAL NON-SPONSORSHIP REGISTRATION REVENUE | | <u>\$6,655</u> | | |
| | TOTAL SPONSORSHIP + REGISTRATION REVENUE | <u>\$42,655</u> | | |

Budget Overrun: \$4,792.12

UCC COMMITTEE
REPORT PREPARED FOR THE MARCH 9, 2023 COUNCIL MEETING

Michael S. Khoury
FisherBroyles, LLC

Kim Ross Clayson
Taft Stettinius & Hollister LLP

Committee Co-Chairs

1. 2021-2022 Budget Request and Anticipated Use of Funds.

No Budget request for 2022-2023

2. Use of Budgeted Funds during 2020-2021.

Not applicable.

3. Next Scheduled Meeting of the Committee.

The committee plans to hold meetings quarterly and is polling the committee for preferences on dates. The next meeting of the Committee is tentatively scheduled for May 22, 2023.

4. Council Approval.

None.

5. Membership.

The membership list for the UCC Committee currently stands at about 90 people. We continue to welcome new members.

6. Accomplishments Toward Committee/Directorship Objectives.

Broad participation at the last committee meeting showed that there is still significant interest in UCC issues and developments.

7. Meetings and Programs.

The committee held its first meeting of 2023 by Zoom on February 27, 2023. The committee discussed the proposed 2022 amendments to the UCC as well as recent case law developments. The committee received a guest presentation about the crypto currency bankruptcy cases of Voyager, FTX and Coin Cloud and recent case law developments in crypto currency bankruptcies.

8. Publications.

The UCC Committee was responsible for the Fall 2021 issue of the Michigan Business Law Journal. A total of six articles were submitted and published. The topics were described in the last report.

9. Methods of Monitoring Legislative/Judicial/Administrative Developments and Recommended Action

The 2022 amendments to the Uniform Commercial Code to enact legislation to implement a new Article 12 that addresses new technologies, crypto and other non-fiat currencies and other developing issues has been approved for enactment but has not yet been introduced in Michigan.

<https://www.uniformlaws.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=2a18c952-5db5-ca16-2274-8c7531990903&forceDialog=0>

The committee is continuing to work on improving relationships with the legislative committees with responsibility for the UCC.

10. Miscellaneous.

None.

Respectfully submitted,

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**COMMUNICATIONS AND DEVELOPMENT DIRECTORSHIP
REPORT PREPARED FOR THE MARCH 9, 2023 COUNCIL MEETING**

1. 2022-2023 Budget Request and Anticipated Use of Funds.

\$5,000 – for outreach programs

2. Use of Budgeted Funds during 2021-2022.

Anticipated use of funds involved Law School events, which did not occur in 2021-2022.

3. Next Scheduled Meeting of the Committee.

No meetings currently scheduled. Meeting anticipated in March/April 2023.

4. Council Approval.

None requested

5. Membership.

Jennifer Consiglio, Julia Dale, Michael Khoury, Mark High, John Schuring and Kevin Block

6. Accomplishments Toward Committee Objectives.

The Directorship continues to evaluate opportunities to more effectively use social media to help publicize BLS events. To that end, several members of the directorship conducted several conference calls with Identity PR to discuss possible engagement for social media efforts. A proposal was received and reviewed, which appears to exceed the Section's needs. Further discussions are anticipated.

7. Meetings and Programs.

None currently scheduled.

8. Publications.

None

9. Methods of Monitoring Legislative/Judicial/Administrative Developments and Recommended Action

Not applicable

10. Miscellaneous.

Volunteers, or suggestions for additional Directorship members. are welcome.

Respectfully, John Schuring, on behalf of the Directorship

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DIRECTORSHIP ON DIVERSITY & INCLUSION
REPORT PREPARED FOR THE MARCH 9, 2023 COUNCIL MEETING

1. Next Scheduled Meeting of the Committee/Directorship.

Next scheduled meeting of the Committee/Directorship:
TBD

2. Council Approval.

None currently

3. Membership.

In the process of setting up Constant Contact to maintain communication with members.

4. Accomplishments Toward Committee/Directorship Objectives.

Nothing new to report.

5. Meetings and Programs.

TBD

6. Publications.

None Currently.

7. Methods of Monitoring Legislative/Judicial/Administrative Developments and Recommended Action

See previous reports.

8. Miscellaneous.

BUSINESS LAW SECTION

LEGISLATIVE REVIEW DIRECTORSHIP REPORT

Prepared for the March 9, 2023 Council Meeting

(Report as of March 1, 2023)

I. PUBLIC ACTS

A. Public Act 85 of 2018. The Act amends the Michigan Business Corporation Act as follows:

- Allows various notices to be transmitted via electronic communication.
- Allows the Administrator to give notice to a corporation, if required to do so under the Act, electronically and in the manner authorized by the corporation.
- Allows the Administrator to provide a written notice for failing to file a document in additional formats, including email.
- Allows the Administrator to maintain and reproduce documents filed under the Act in accordance with the Records Reproductions Act and removes references to other forms of document storage and reproduction.
- Requires a corporation's Articles of Incorporation to include a statement of authority vested in the board if the board is to act regarding share designations and issuances in one or more classes or series.
- Allows the board of a corporation to authorize resolutions designating classes and series of shares or eliminating or revising classes and series of shares.
- Revises requirements for owning shares in a professional organization and modifies the provisions for severing employment and financial interests in a professional organization.
- Allows a shareholder or a director to execute a consent to an action that will take effect at a future date.
- Allows a plan of merger or share exchange to take effect without shareholder approval in certain circumstances.
- Redefines, and introduces definitions for, various terms.
- Under the Act, the "administrator" is the chief officer of the Department of Licensing and Regulatory Affairs or his or her designated representative.

(SB 442;Effective: 6/24/2018).

B. Public Act 131 of 2018. The Act amends the Michigan Uniform Partnership Act as follows:

- Revises provisions regarding the liability of a partner of a registered LLP for a debt, obligation, or other liability incurred by the partnership.
- Provides that the limitation on liability applies regardless of the dissolution of the partnership.
- Specifies that these provisions would not affect the personal liability of a partner for a liability of the partnership incurred or arising before the Act's effective date.
- Specifies that the failure of a registered LLP to observe formalities related to exercising its powers or management would not be grounds for imposing liability on a partner.

(SB 841; Effective: 8/1/2018).

C. Public Act 186 of 2018. Public Act 186 enacts the "Pyramid Promotional Scheme Act" which provides the following:

- Prohibits a person from promoting or participating in a pyramid promotional scheme and prescribe penalties for violations of the Act.
- Allows the Attorney General to issue a cease and desist order if he or she has reasonable cause to believe that a person violated, or is about to violate, the Act.
- Allows the Attorney General to bring an action in Circuit Court to enjoin conduct that violates the Act, enforce compliance with the Act, or recover civil fines up to \$10,000 per violation.
- Allows the Attorney General or a prosecuting attorney to issue a written demand for a person to appear and be examined and to produce documents or objects for inspection, before bringing an action in court.
- Establishes a rebuttable presumption that a plan or operation was not a pyramid promotional scheme if certain conditions are met.
- Requires the Attorney General or prosecuting attorney to keep testimony taken or material produced confidential before bringing an action, unless the person under investigation waives confidentiality or the court authorizes disclosure.

(HB 5726; Effective: 9/11/2018).

D. Public Act 380 of 2018. Public Act 380 amends the Michigan Limited Liability Company Act to do the following:

- Requires the Director of the Department of Licensing and Regulatory Affairs to waive the fee for filing initial Articles of Organization for a domestic limited liability company if a majority of the initial membership interests in the company will be held by veterans.
- Requires the person who requested a filing fee waiver to submit to the Director certain documents with the initial articles of organization.

"Veteran" is defined as an individual who served in the United States Armed Forces, including the reserve components, and was discharged or released under conditions other than dishonorable.

(HB 4701; Effective: 3/19/2019).

- E. Public Act 141 of 2019. Public Act 141 amends the Mortgage Loan Originator Licensing Act to grant certain individuals temporary authority to act as a mortgage loan originator without first obtaining a license and specifies the period of time for which the temporary authority would apply. (HB 5084; Effective: 12/05/2019).
- F. Public Act 344 of 2020. Public Act 344 enacts the "Financial Exploitation Prevention Act" to do the following:
- Require a financial institution to develop and implement a policy for training relevant employees to recognize signs of covered financial exploitation.
 - Require the policy to provide certain information, including procedures to follow when covered financial exploitation is found and designation of one or more employees to make a report regarding the covered financial exploitation to a law enforcement agency or Adult Protective Services (APS).
 - Require a report of financial exploitation or suspected financial exploitation to include certain information, including the name of the individual believed to be the victim, a description of the suspected or detected covered financial exploitation, and a designated contact for required notices if the reporter is a financial institution.
 - Require a law enforcement agency or APS to notify, within 10 days after it receives a report of suspected or detected covered financial exploitation, the financial institution whether a reported incident is under investigation or has been referred for investigation.
 - Require a law enforcement agency or APS, within 10 days after it receives a report, to notify the office of the county prosecutor.

- Prohibit a law enforcement agency, APS, or county prosecutor from disclosing the identity of an individual or financial institution that made a report without the individual's or financial institution's consent.
- Specify that a financial institution is immune from liability or penalty under law or regulation of Michigan or a local unit of government for an action or process under the Act, subject to certain exceptions.

(SB 464; Effective: 9/16/2021).

G. Public Act 115 of 2021. Public Act 115 amends Article 9 (Secured Transactions) of the Michigan Uniform Commercial Code to change references to a "correction statement" to an "information statement", and to require a filing office to accept certain financing statement forms approved by the International Association of Commercial Administrators and adopted by the Secretary of State (SOS) and any other form adopted by the SOS. (HB 4694; Effective: 11/22/2021).

H. Public Acts 31 and 32 of 2022. Public Acts 31 and 32 amend the Michigan Limited Liability Company Act and the Michigan Business Corporation Act, respectively, to do the following:

- Allow one or more individuals licensed to engage in the practice of chiropractic medicine to organize a professional limited liability company (PLLC) or a professional corporation (PC), as applicable, with one or more other individuals licensed in the practice of chiropractic medicine, the practice of medicine, the practice of osteopathic medicine and surgery, or the practice of podiatric medicine and surgery.
- Allow one or more individuals licensed to engage in the practice of chiropractic medicine to organize a PLLC or a PC with one or more licensed physician assistants.
- Prohibit one or more physician assistants from forming a PLLC or a PC with a chiropractic physician unless a physician licensed to engage in the practice of medicine or osteopathic medicine and surgery is also a member.

(HB 5295 and HB 5296; Effective: 3/15/2022).

I. Public Act 131 of 2022. Public Act 131 amends the Act that governs local hospital authorities, to do the following:

- Delete a provision requiring the articles of incorporation of a nonprofit corporation, and the contractual arrangements between a hospital authority and the nonprofit corporation, to prohibit a nonprofit corporation from selling, leasing, or otherwise transferring a hospital without voter approval.
- Allow a nonprofit corporation to sell, lease, or otherwise transfer a hospital on terms and conditions the nonprofit corporation considered reasonable if the sale, lease, or other transfer is approved by the hospital authority.

- Delete a provision requiring the articles of incorporation of a nonprofit corporation, and the contractual arrangements between a hospital authority and the nonprofit corporation, to require a nonprofit corporation to adopt and carry out policies designed to ensure that hospital care is provided to a reasonable degree to indigent people in its hospital service area free of charge and that patients not be denied appropriate care on the basis of source of payment.
- Allow a hospital board, by a majority vote of the board, to provide for the dissolution of a hospital authority if the authority has completed the purposes for which it was organized.

(HB 5876; Effective: 6/29/2022).

- J. Public Act 137 of 2022. Public Act 137 amends the Michigan Limited Liability Company Act to modify the definition of "person" to include a nonprofit corporation, and in effect, allows nonprofit corporations to organize an LLC. (SB 926; Effective: 7/20/2022).

II. NEW BILLS AND STATUS OF PENDING BILLS

- A. None.

Respectfully submitted as of March 1, 2023:
Eric I. Lark/Chaoyi Ding
Kerr, Russell and Weber, PLC

PROGRAMS DIRECTORSHIP
REPORT PREPARED FOR THE MARCH 9, 2023
BUSINESS LAW SECTION COUNCIL MEETING

1. Next Scheduled Meeting of the Directorship.

Directorship holds meetings, and communicates via telephone and email, as necessary, to discuss course speakers and other matters regarding the Business Law Institute and the Annual Meeting, as appropriate. The 2023 BLI will be held at the J.W. Marriott Hotel in Grand Rapids on October 6, 2023.

2. Council Approval

N/A

3. Membership

Those serving on the Programs Directorship include Catherine Ferguson, Dee Dee Fuller, Eric Lark, Dan Minkus (Chair), John Schuring, and Sarah Williams.

4. Accomplishments Toward Committee Objectives

All of the Directorship members actively participate in the planning process.

The Directorship will schedule meetings, or communicate via telephone and email, as necessary to finalize course schedules and secure speakers.

5. Meetings and Programs

Business Boot Camp II for 2023 is under consideration and direction is needed from Council at this meeting if a 2023 session is to be conducted.

6. Publications.

N/A.

7. Legislative/Judicial/Administrative Developments

N/A.

8. Miscellaneous

N/A.

Report submitted by:

Daniel H. Minkus

**ICLE LIAISON
QUARTERLY REPORT PREPARED FOR THE
MARCH 9, 2023 COUNCIL MEETING**

1. Next Scheduled Meeting of the Committee.

None.

2. Council Approval.

ICLE requests approval at the March 9 meeting for the Section to co-sponsor the following on-demand seminars:

- *Business Litigation Tips and Tricks*, Just recorded and not yet released. Panelists are Fatima Bolyea, Alari Adams, and Judge Draganchuk.

- *Trends in Representations and Warranties Insurance*. To be recorded in May 2023. Speakers are Daniel Minkus, Kevin McCarron, and Gene Bowen.

3. Membership.

N.A.

4. Accomplishments Toward Committee Objectives.

The table below reflects viewer statistics on recently released on demand webinars the Section has co-sponsored.

| Seminar Title | Unique Users | Hits |
|---|--------------|------|
| Tax Law Series: Tax Strategies for Limited Liability Companies | 138 | 262 |
| Navigate Noncompetes | 94 | 133 |
| Data Privacy and Cybersecurity | 76 | 129 |

Statistics for the Corporate Transparency Act webinar are not yet available, but will likely draw even larger numbers.

5. Future Meetings and Programs.

See item 2 above.

6. Publications.

None.

7. Methods of Monitoring Legislative/Judicial/Administrative Developments and Recommended Action

None.

8. Miscellaneous.

ICLE will be printing a new edition of Michigan Limited Liability Companies and a new supplement of Michigan Business Formbook in this spring.

Marguerite M. Donahue
Taft
March 5, 2023

PUBLICATIONS DIRECTOR
REPORT PREPARED FOR THE
BUSINESS LAW SECTION COUNCIL MEETING
STATE BAR OF MICHIGAN

March 9, 2023

Publication of *Michigan Business Law Journal*

Articles for the Summer 2023 issue (March 31, 2023 deadline; In-House Counsel Committee) of the *Journal* are being solicited, reviewed and typeset. Articles for the Fall 2023 issue (July 31, 2023 deadline; Corporate Laws Committee) are being solicited, received and reviewed.

A current schedule of publication dates, dates for submission of articles and committee assignments is attached.

Respectfully submitted,

Brendan J. Cahill
Publications Director

Michigan Business Law Journal

**Schedule Of Publication Dates, Article Submission Dates And
Committee Assignments**

Commencing March 2023

Fall 2023; November 30, 2023

Corporate Laws Committee

Justin G. Klimko / Michael K. Molitor

Deadline for submission of articles: July 31, 2023

Spring 2024; March 31, 2024

Debtor/Creditors Rights Committee

Judy B. Calton / Judith Greenstone Miller / Marc Swanson / Paul Hage / Shanna M. Kaminski

Deadline for submission of articles: November 30, 2023

Summer 2024; July 31, 2024

Nonprofit Corporations Committee

Celeste E. Arduino / Jennifer M. Oertel

Deadline for submission of articles: March 31, 2024

Fall 2024; November 30, 2024

Uniform Commercial Code Committee

Michael S. Khoury

Deadline for submission of articles: July 31, 2024

Spring 2025; March 31, 2025

Commercial Litigation Committee

Doug Touring

Deadline for submission of articles: November 30, 2024

Summer 2025; July 31, 2025

LLC & Partnership Committee

Donald A DeLong / Loukas P. Kalliantasis

Deadline for submission of articles: March 31, 2023

Fall 2025; November 30, 2025

Financial Institutions Committee

David W. Barton / Thomas M. Schehr

Deadline for submission of articles: July 31, 2025

Spring 2026; March 31, 2026

Regulations of Securities Committee

Patrick Haddad

Deadline for submission of articles: November 30, 2025

Summer 2026; July 31, 2026

In House Counsel Committee

Joseph Yamin

Deadline for submission of articles: March 31, 2026

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