

Michigan Supreme Court
c/o Corbin R. Davis
Supreme Court Clerk
P.O. Box 30052
Lansing, Michigan 48909

Submitted Via Email: MSC_clerk@courts.mi.gov

March 31, 2008

Re: ADM File No. 2004-08 – Proposed New Rule 8.126

Dear Justices:

I write on behalf of Michigan Manufacturers Association (MMA) to comment on the Proposed New Rule 8.126 of the Michigan Court Rules.

As described in the Michigan Bar Journal and on the Michigan Supreme Court Website (<http://courts.michigan.gov/supremecourt/Resources/Administrative/2004-08-22107.pdf>), the proposed Rule would limit out-of-state attorneys to three appearances in Michigan cases within a 365-day period. Although the MMA respects the need for the Supreme Court to regulate attorneys who practice within the State of Michigan, the MMA does not believe that the proposed Rule as currently drafted effectively balances the need to regulate attorneys with the rights of individuals and companies to secure the legal representation of their choice.

In today's global economy, many MMA members' business activities span across state and international borders, and they find themselves embroiled in litigation in multiple jurisdictions. Thus, protection of our member's legal interests requires our members to deploy attorneys to those jurisdictions with both legal expertise and a familiarity with each member's complex business practices and structure. Accordingly, many of our members have developed a system of staff lawyers and retained outside counsel that they may deploy to address the company's legal issues efficiently and capably, wherever and whenever they may arise. This system permits our members to approach similar legal issues with a potentially regional or national impact in a careful and organized manner, rather than in a piecemeal or haphazard fashion. Restrictions on multi-jurisdictional practice like those proposed in MCR 8.126 compromise our member's ability to protect their legal interests by increasing the costs to them (by requiring unnecessary and duplicative legal advisors) and, in many instances, impeding the effectiveness of the legal services available to them by eliminating their ability to leverage the knowledge base of their selected counsel.

In addition to these general concerns regarding restrictions on multi-jurisdictional practice, MMA also has several specific comments regarding the proposed Rule. Specifically, the proposed Rule appears to define more than three temporary admissions within a 365-day period as being excessive; however, neither the proposed Rule nor the Staff Comments specify the basis for determining that more than three temporary admissions within a 365-day period is excessive or how that number itself was derived.

Notably, the American Bar Association has addressed this topic already, and while the ABA does not define “excessive,” it does provide a summary chart of the temporary admission requirements in each state (see http://www.abanet.org/cpr/mjp/prohac_admin_comp.pdf). A review of this chart reveals that the proposed Rule would make Michigan among the most restrictive jurisdictions in the country regarding temporary admissions. In fact only Montana, allowing two lifetime temporary admissions and Florida, allowing three temporary admissions every 365 days, would be as or more restrictive than Michigan under the proposed Rule.

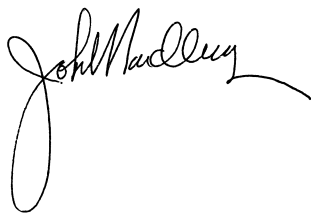
Additionally, neither the proposed Rule nor the Staff Comments indicate the existence or scope of any problem with appearances by out-of-state attorneys that needs to be resolved by amending the Court Rules.

Accordingly, MMA proposes that the Supreme Court hold public hearings on the subject to determine what constitutes an excessive number of appearances and whether there is a current problem with the number of appearances by out-of-state counsel.

The proposed Rule also requires an out-of-state attorney to submit an affidavit with a certificate of good standing from each jurisdiction in which the attorney is licensed. MMA believes that this requirement is unduly burdensome and unnecessary. As a result of the fluid boundaries of a global society, many attorneys today are licensed in multiple states, making the task of obtaining multiple certificates of good standing for each motion or matter particularly onerous and time-consuming. For this reason, MMA urges the honorable Court to remove the requirement that out-of-state attorneys submit certificates of good standing to the Attorney Grievance Commission. Instead, MMA proposes that the rule only require out-of-state attorneys to submit a sworn affidavit stating that the attorney is in good standing in each jurisdiction in which the attorney is licensed, and that the attorney affirms the number of times they have appeared in Michigan on a temporary basis within the last 365 days, whenever the appropriate number of appearances is finally determined. By requesting temporary admission and submitting this affidavit, the out-of-state attorney would be subject to disciplinary action here in Michigan.

MMA welcomes an opportunity to comment on this proposed Rule further during any scheduled public hearings.

Sincerely,

A handwritten signature in black ink, appearing to read "John MacIlroy". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

John “Mac” MacIlroy
President and CEO