

Jury Reforms Take Effect September 1

by Kevin M. Oeffner
Circuit Court Administrator



At least a couple of articles about the new jury reform rules have been written in legal publications over the past couple of weeks (it is late July when this article is being written). These reforms represent significant

changes in the way business is done, so please forgive me if this is repetitive for some.

By way of background, jury reform has been on the Michigan Supreme Court's agenda for the last few years. In July 2006 the Supreme Court published a jury reform proposal for public comment. In 2008 the Supreme Court authorized a pilot jury reform program in which 11 courts – six circuits and five districts – across Michigan participated. Our court was one of those in the pilot, with Judge Wendy Potts being the participating judge.

As stated in the Supreme Court's Administrative Order 2008-2, the purposes of the pilot program were to "determine whether, and in what way, the proposed jury reform amendments support the goal of meaningful juror participation, and lead to greater confidence in the validity of the specific verdict and the overall jury system."

In Administrative Order 2008-2 the Supreme Court adopted specific rules under which the participating courts were required to adhere. December 31, 2010, was established as the duration of the pilot program. Many trials were conducted in which the jury reforms were initiated by the participating trial judges. Among other means, surveys were used to measure juror satisfaction with the reforms. In discussions with State Court Administrative Office personnel familiar with the pilot program, it was mentioned that jurors strongly favored many of the reforms.

Given the Supreme Court's evaluation of the pilot program coupled with the favorable reviews of the reforms by jurors, several rule changes regarding the manner in which jurors participate in the trial process were adopted. Official announcement of the jury reforms was made in a press release issued by the Supreme Court on June 29.

In the press release, Chief Justice Robert P. Young, Jr. noted an important aspect of jury reform that courts do well to

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remember. He made mention of the fact that jury service is often inconvenient and may require jurors to make certain sacrifices. In regard to courts he said, "Those of us in the court system owe it to them [jurors] to make their service as meaningful as possible, and that includes freeing them to be more actively engaged in the trial process."

The reforms took effect on September 1. I will summarize a few of the reforms here and include a link to the complete list of reforms near the end of this article. Among others, jury rule changes will allow:

- jurors to submit questions to witnesses through the judge and with the court's permission.
- jurors to discuss evidence in civil cases during trial recesses in the confinement of the jury deliberation room and so long as all jurors are present.
- jurors to take notes during the trial and review those notes during deliberation, if approved by the court.
- judges, at their discretion, to require attorneys to provide information to jurors containing witness lists, applicable laws relating to the case, copies of applicable documents at issue, trial exhibits and/or preliminary jury instructions.
- judges to schedule the sequential testimony of expert witnesses.

- judges to summarize the evidence after closing arguments.

The complete list of the jury reform measures may be viewed in Supreme Court Administrative File No. 2005-19 as adopted on June 29, 2011. The link to the file is www.courts.michigan.gov/supremecourt/Resources/Administrative/2005-19_06-29-11_order.pdf.

Those interested in more information about the jury reform measures should view the press release issued by the Supreme Court in late June. You may view the release at www.courts.michigan.gov/supremecourt/press/juror/. In addition to several comments regarding the objectives of jury reform by Chief Justice Young, a summary of the rule changes is included at the end of the press release.

Many judges are already familiar with the rule changes; nevertheless, the Michigan Judicial Institute will hold a jury reform seminar for circuit and district court judges on Thursday, September 8 at the Hall of Justice in Lansing. The seminar will be aired live via Webcast so that as many judges who wish to participate in the seminar may do so.

The reforms took effect on September 1 but the Supreme Court intends to review the jury rule changes and their impact on the trial process in late 2014.

Until next time...

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