

Name: James Varchetti

Date: 03/29/2023

ADM File Number: 2022-37

Comment:

I write to strongly oppose the proposal set forth in ADM File No. 2022-37 to create a new “vendor neutral citation system” for Michigan’s courts. Many of the reasons I oppose this proposal are already expressed in the thoughtful comments submitted by Court of Appeals Judges Swartzle and Murray, and I echo their sentiments in full. I write to offer additional thoughts on why this measure should be rejected.

First, this proposal purports to solve issues that are either non-existent or trivial in nature. Even worse, the proposal attempts to solve these issues with a solution—the replacement of a well-established citation system—which is orders of magnitude more troublesome than the issues it purports to solve. The proposal implies that this new citation system will address two issues: (1) solve the problem of allowing an immediately available permanent citation without the need to wait for an official publication, and (2) allow citations to be untethered from commercial vendors and their proprietary publications and services, which may not be accessible to all attorneys or members of the public.

However, the first ostensible issue is trivial. The Michigan Appellate Opinion Manual already provides a clear format for citing cases, even those for which a permanent citation is not already available. That format already includes a reference to the Court’s docket number. The second issue is virtually non-existent. Every member of the Michigan State Bar has free access to the research service FastCase through the State Bar’s website. FastCase shows the page numbers for official reporters like the Michigan Reports and the North Western Reporter. Thus, every practicing attorney in Michigan already has free access to a legal research suite that allows citation in conformance with current standards. Even members of the general public have access to such citations through free websites like Casetext, vLex, and others that publish court cases with page numbering in accordance with the official reporter.

Second, this new citation system will be unreasonably burdensome on attorneys in private practice because it will require them to visit the Court’s website to find the “event number,” on the case’s docket at which the opinion or order is published. For pinpoint references, they will also have to find the page number in the opinion as it is published by the court. In other words, after using already familiar research suites like Lexis, Westlaw, or FastCase to find a relevant case, attorneys will then have to take the extra step of finding information on the Court’s website just to provide a proper citation. The extra time and effort needed to do this is unnecessary, will make drafting briefs more burdensome and time consuming, and will result in larger bills for clients as attorneys spend additional time chasing down citation information on the Court’s online docket.

Third, the proposal will also be unduly burdensome on attorneys in the public sector such as research attorneys, law clerks, administrative law specialists, and judges. Attorneys in the public sector often perform research and provide citations even more frequently than those in private practice, and the burden of learning a new citation system and having to repeatedly visit the Court’s website to find docket event numbers will therefore be all the more burdensome. Indeed, having formerly been a research attorney for the Court of Appeals and a law clerk at the Michigan Supreme Court, I despair at the thought of the extra and unnecessary time and effort that this proposed system would impose, all without offering any substantial benefit in return.

In sum, the creation of a new vendor-neutral citation system creates more burdens than it relieves, and it attempts to resolve issues that are either trifling or nonexistent. Accordingly, the Court should decline to adopt this proposal.