The Circuit Court
for the Sixth Judicial Circuit Court
OFFICE OF THE COURT ADMINISTRATOR
1200 N TELEGRAPH RD DEPT 404
PONTIAC MI 48341-0404

April 5, 2004

Theodore A. Golden, M.D.
1746 Bellwood Court
Bloomfield Hills, MI 48302

Dear Dr. Golden,

I am in receipt of your letter expressing concerns about the court's motion and domestic mediation practices addressed to Chief Judge Wendy Potts. It was forwarded to me for review and response. I reviewed all of the documents that you presented to the Court and appreciate your candor about what must have been a very trying period in your life. Thank you for taking the time to bring these matters to our attention.

Regarding Local Court Rule (LCR) 2.119-Motion Practice, you express concerns that the court's existing motion practice suffers from inherent inefficiencies that punish litigants and attorneys as they struggle to resolve individual motions. Because attorneys and litigants may have multiple motions scheduled before multiple judges for the same date and time, attorneys, litigants, and courts attempt to balance often irreconcilable demands of the litigation process, including discussion, negotiation, meeting with referees or other third parties, and appearing before the court. Only one of these components involves direct interaction with the judge. However, each of these actions plays an integral role in the litigation process, as parties like you move towards the resolution of the issues before the court.

While delays occur in the process, attorneys and litigants use their time and presence at the courthouse for motions, pretrials, and trials as an opportunity to meet, discuss, and resolve issues in their cases. Legal history is replete with examples of courthouse settlements. These settlements may resolve a discovery motion or a multi-million dollar class action suit. The

difference is one of magnitude rather than of importance, because every party benefits when it settles a dispute rather than fighting through a trial or hearing. This settlement process works and is an important part of litigation, because it maximizes the use of the court's hearing time.

As to your proposal, rather than working with a sliding time scale that provides parties with a flexible schedule, cases would occupy specifically defined, finite time slots. Barring major changes to the case assignment system, motion appointments could not be interchanged between judges. Thus, the court would confront a dilemma when a case exceeded the time of a specific appointment. It could continue the case into the time allotted for the next appointment, reschedule the matter for a subsequent appointment, rule before the full record is developed, or adjourn later appointments. Frankly, each of these options is less than perfect.

The specific instance of May 21, 2001 that you reference in your letter appears to be an example of a busy attorney and perhaps a lack of effective communication, rather than a breakdown of the court's motion system. Judge Brennan accommodated the parties once they were ready to proceed and took the bench at 12:15 p.m. to hear the motion. In the end, the court process appears to have performed admirably, while opposing counsel may have struggled with the demands of a very busy day.

Acknowledging that delays like the one you describe occur, such anecdotes do not define the process as a whole. Instead, the incident suggests the need for good communication between the attorneys and parties. In the end, while I appreciate your concerns over the delays that occurred on May 21, 2001, I do not believe that changing the motion docketing practice to one with a defined schedule would end the delays like the one that you described. I suspect that similar delays would continue as attorneys and/or parties struggle to balance the demands of multiple court appearances before multiple judges.

You also expressed concerns about the ongoing implementation of MCR 3.216 domestic relations mediations. In reviewing your file, I note that the parties through their attorneys stipulated to a mediator. As a result, the mediator qualifications identified at MCR 3.216(G) do

not apply. MCR 3.216(E)(2). Thus, the issues that you raise regarding the ongoing qualifications of the mediator, Hanley Gurwin, do not apply.

You also proposed changes to MCR 3.216. Please be advised that the Michigan Supreme Court retains sole jurisdiction to amend the Michigan Court rules. You may wish to pursue your proposed amendment of MCR 3.216 with the Supreme Court.

Please contact me if you have further questions regarding these matters. I remain,

Sincerely Yours,

Richard M. Lynch

Richard M. Lynch
Chief of Court Operations/ Judicial Assistant

CC: Hon. Wendy Potts, Chief Judge