



Comments Regarding Proposed Revisions to Fed. R. Civ. P. 45  
Anne Smith to: rules\_comments

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Mr. McCabe

Attached are comments from the State Bar of Michigan and it's US Courts Committee regarding proposed revisions to Fed. R. Civ. P. 45.

Thank you

Anne M. Smith  
Executive Office  
State Bar of Michigan  
Michael Franck Building  
306 Townsend St.  
Lansing, MI 48933  
asmith@mail.michbar.org  
517.346.6374  
517/316.7274

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p 800-968-1442

f 517-482-6248

www.michbar.org

Mr. Peter G. McCabe, Secretary  
 Committee on Rules of Practice and Procedure  
 Thurgood Marshall Federal Judiciary Building  
 Washington, D.C. 20544

306 Townsend Street

Michael Franck Building

Lansing, MI

48933-2012

Re: State Bar of Michigan's and its United States Courts Committee's Comments  
 Regarding Proposed Revisions to Fed. R. Civ. P. 45

Dear Mr. McCabe:

The State Bar of Michigan and its United States Courts Committee ("USCC") offer the following comments regarding the proposed amendments to Fed. R. Civ. P. 45 ("Rule 45") for the consideration of the Committee on Rules of Practice and Procedure ("Committee"). The membership of the USCC includes several members of the federal bench of the Eastern and Western Districts of Michigan.

In response to the Committee's solicitation of comments in Section 3 of "Topics On Which Public Comment Is Particularly Invited," members of the USCC envisioned a variety of situations in which testimony from a party or party's officer would be sufficiently important to the fair disposition of a matter that compelling live testimony would be justified. Examples include circumstances where the credibility of the testimony of a party or a party's officer is critical and thus is more fully and fairly judged live, and, document-intensive examinations where necessary shuffling back and forth between multiple complex documents and exhibits can lead to confusion and misidentification. Consequently, the USCC and the Executive Committee of the State Bar unanimously concluded that the proposed revised Rule 45 would unduly restrict the trial court's ability to make a fact-specific determination that balances the interests of the parties. We therefore urge your Committee to include the language of subdivision (c)(3) in the Appendix in the final version of Rule 45, as contemplated by the Appendix.

The State Bar and the USCC further note that although several topics for comment (including all of those suggested by your Committee) were considered, it was the consensus that the selected one is most appropriate for comment because the proposed revisions appear to unduly restrict the ability of trial judges to exercise discretion.

We thank the Committee for the opportunity to comment on the proposed amendments.

Sincerely,



Janet K. Welch  
 Executive Director

Cc: Julie I. Fershtman, President  
 Mark McInerney, Chair, US Courts Committee