

**JOHN R.
BRAKORA**

ATTORNEY AT LAW

December 6, 2011

Michigan House of Representatives
ATTN: Judiciary Committee
P.O. Box 30014
Lansing, MI 48909-7514

In re: SB 416

Ladies and Gentlemen:

This letter is offered as yet another attempt to urge caution in the reconstruction of our court system by consolidating the responsibilities for the 85th District Court with the existing Probate/Family Court position.

Attached hereto are copies of letters I have previously sent to Governor Snyder and Senator Rick Jones addressing this issue. Admittedly, those letters were directed towards a different piece of legislation, but the issues are identical. I have attached these letters because neither was responded to or even acknowledged. I don't know that either was read by the person to whom it was directed.

The effect of what the people of this community have gone through since February 28, 2011, is catastrophic. It is abysmally difficult to try to conduct business in a reasonable fashion and effectively represent the people of our community who have dealings with the 85th District Court. Scheduling is a challenge, and that is only the first hurdle. Actually getting things accomplished takes two or three times longer than it used to, because of overcrowded dockets and a lack of established practices.

Since March 1, 2011, I believe that I have seen either seven or eight different individuals occupying the position of 85th District Court Judge. Each Judge does things just a little differently, and we seldom know who our "Judge for the day" will be until we see the docket. Apparently, the "rotating judgeship" is a necessary evil attributable to the fact that no one Judge has the time to perform these duties on a regular and consistent basis to meet the need. The result is a District Court in turmoil.

If there is anything that a court system should not be it is random and unpredictable. The purpose of the law is to maintain order. Nothing could be further from the reality that we have been

427 Water Street • PO Box 421 • Manistee, Michigan 49660 • ph/ 231-723-2591 • fax/ 231-723-8241

www.jrbrakoralaw.com

House Judiciary Committee

Page 2

December 6, 2011

forced to deal with under this grand experiment. It is hopelessly flawed, and there is no realistic expectation that it will get any better if it's perpetuated. On the contrary, over the course of the last nine months, it has gotten progressively worse.

The people of this community and the people that pass through this community deserve better than can be accomplished under this proposal. I recognize that budgetary concerns are at the heart of this movement, but budgetary concerns cannot be allowed to override our system of justice. Justice is about fairness, and what our community is being subjected to is as far from fair as you can imagine.

Please proceed with caution in regard to this matter. As I indicated in my letter to Senator Jones, a bad idea is a bad idea, regardless of where it came from. As someone forced to deal with the front-line consequences over the last nine months, I can tell you that this is one very bad idea, the magnitude of which you can't possibly appreciate from afar.

With every fiber of my being, I would urge you to abort this grand experiment and allow our community to be served by an 85th District Court that functions as it should, as a separate entity designed to serve the people of the community.

Thank you for your time and consideration.

Sincerely,



John R. Brakora

JRB:jkb

Enclosures (2)

JOHN R.
BRAKORA

ATTORNEY AT LAW

February 1, 2011

Governor Rick Snyder
P.O. Box 30013
Lansing, MI 48909

Re: 85th District Court (Manistee/Benzie Counties)

Dear Governor Snyder::

This letter is written with a dual purpose; to address the issue of the necessity of continuing the independent existence of the 85th District Court and to propose what I believe to be a reasonable suggestion for filling the vacancy to be created by Judge Brent Danielson's retirement, effective February 28, 2011.

While the issue of filling a vacancy resulting from a judicial retirement is one which is always filled with some level of anxiety attributable to the unknown, the situation presented to the people of the 85th Judicial District is even more so with the uncertainty of whether the position will be filled, eliminated, or in some manner, modified. I understand that studies have been conducted and recommendations made regarding elimination of the position. I believe that elimination of the 85th District Judgeship would be a genuine and tragic mistake and an enormous disservice to the people of our community.

Unlike studies, based upon statistical analysis or in some instances, statistical manipulation, my position is based upon participation as a practicing member of the Bar in this community for in excess of thirty one years. A fair portion of that time has been spent in our District Court covering, pretty much, the full array of options that are available there, with the exception of never having functioned in the capacity of a prosecuting attorney. Addressing misdemeanors, civil infractions, landlord tenant problems and smaller civil suits, the District Court is, far and away, the Court with which the greatest number of community members will have contact.

The most common proposal about which we are hearing as a "possibility" is legislation to amend the jurisdiction of the present Probate/Family Court Judge and assign to that judge the additional responsibility for the District Court docket, as well.

427 Water Street • PO Box 421 • Manistee, Michigan 49660 • ph/ 231-723-2591 • fax/ 231-723-8241

www.jrbrakoralaw.com

While that may seem like a reasonable proposal to someone looking only at numbers, practical considerations are such that such an arrangement would bring our Courthouse to something resembling a screeching halt. There simply is not room in the week to add the District Court docket to the existing Probate/Family Court schedule.

As I understand it, Mondays in our Probate/Family Court, are devoted to Probate matters. Tuesdays are Family Court Motion days. Thursdays are devoted to Juvenile and Abuse/ Neglect proceedings. Wednesdays and Fridays are used for trials and extended hearings, which are fairly common in the Family Court, and custody matters have the highest priority in terms of whose case gets heard first.

As I indicated above, the District Court is the Court with which the community will be most likely to have contact. To relegate those matters to a "when we get to you" basis is unfair to the community, because it is the Court with the highest volume of cases. Granted, the matters addressed are of comparatively lesser significance in the grand scheme of things, but to an individual faced with a District Court level problem, it is a big deal and the District Court deals with great numbers of people each and every week.

According to the 2009 Caseload Summary (2010 is not yet available) our District Court, in Manistee County only, handled in excess of 6,000 matters. If you discount the routine traffic tickets that can often be handled administratively, that still leaves about 3,400 cases per year, or about 65 per week which require some level of attention from a judge. Some matters are admittedly brief by nature. Others are not. Imposing the burden of dealing with an additional 65 cases per week upon a judge who already has full time case load is unreasonable and a recipe for disaster.

Additionally, I would respectfully remind you that the 85th District Court covers two counties, Manistee and Benzie and I believe that the person serving as District Judge should sit as the District Judge in both counties. At present, the redistribution being proposed for Manistee County has been employed in Benzie County, such that the Probate/Family Court Judge is covering the District Court docket. The population of Benzie County is much smaller than Manistee County and scheduling in the Benzie County division of the District Court can best be described as a nightmare. It is proof that the idea is flawed. It is unnecessarily difficult to try to get anything accomplished in a reasonable amount of time. To employ a "fix" in Manistee County by employing a system that has been proven not to work well in Benzie County is not progress. The remedy is to have the 85th District Court Judge sit as the 85th District Court Judge for the entire district. Then, and only then, will the people have the person that they elect to do a job actually doing the job and the Probate/Family Court Judges can do theirs, as well.

If there is a way to generate a worse sense of community relations between the people of the community and the court system, it is to make people wait longer, have more trouble getting hearing dates, and delay their ability to get things "taken care of". These things are already a problem. To exacerbate the problem by consolidating various entities into one "supercourt", making longer lines, longer delays, and less being accomplished could only seem like a good idea to someone who has no idea how a courthouse functions in real life.

Unlike larger communities where there are multiple district judges, we have only one. Downsizing from five judges to four or from four judges to three is vastly different than eliminating our one and only district judge. At least in the downsizing scenario, it is simply a matter of adjusting numbers of the same types of cases. What is being proposed here is to impose upon one existing judge not only the burden of the additional volume, but entirely different types of cases, with entirely different processes, procedures, and considerations. It may work in a very small county where there is not the volume to deal with, but the number of people that "pass through" our District Court is not conducive to such an arrangement.

The bottom line is that the recommendations for elimination of our District Court as a separate entity are being made by people who have never stood in our shoes and tried to provide quality representation to relatively large numbers of people with relatively small problems. It is not unusual to have three or four, or more, matters on any given District Court docket, but if the District Court can't function on a regular and consistent basis to address the needs of the community in a reasonably timely fashion, then the dockets grow longer because they are more infrequent, the number of separate cases per docket grow, and the quality of the service provided deteriorates because there are limits as to the number of separate and distinct matters that a person can keep sorted out in his or her head and deal with effectively in immediate succession.

Further, the alleged cost savings attributable to eliminating one judicial position are, in my opinion, illusory, because in addition to a providing an inferior level of service to the community, the remaining judge or judges are necessarily going to require additional support staff, the cost of which could equal or exceed the savings. It is not progress - it becomes simply a matter of change for change sake. If cost is truly the target, the answer lies in making effective and efficient adjustments and streamlining the operation. Keep in mind that the District Court has traditionally generated an enormous amount of money for the benefit of the public. To use a business analogy, what is being proposed is to fire the CEO and not replace him. The service to the community suffers, the public benefit from the revenue generated by the operation of the Court suffers, and who benefits? Someone gets to take credit for savings because

they no longer have to bear the cost of feeding the hen that has regularly laid the golden egg. It is incredibly short sighted. Our community deserves better.

On a separate, but related issue, I find it curious that people are making decisions that will directly affect (and potentially devastate) our community without any community input. How can that be? We, the practicing bar, and the community at large, have to live with whatever the ultimate decision is, yet there has been no solicitation of community input that I am aware of nor any involvement in the day to day operations of our Court. I would be willing to bet that some of the people responsible for "recommendations" have never even been to Manistee and probably would struggle to locate it on a map. It makes no sense. A person cannot effectively evaluate a system that he or she has never seen in operation. Please! Our community deserves better.

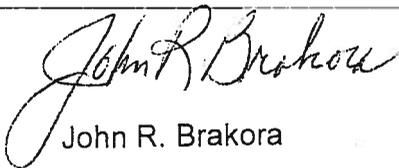
As to the second issue of my letter, I would like to submit my name for consideration as Judge Danielson's successor, if that becomes a consideration. I have practiced law in this community for more than 31 years. I am fifty six years old, in good health, and there is not much that goes on in the District Court that I have not done, seen, or been a part of. By my calculation, I have practiced in the courts of about 30 different counties across the State. I am licensed to practice in the Western District of the Federal Court. I have appeared before the Court of Appeals some 40 times. I am a member of the State Bar in good standing. I have never been sanctioned or reprimanded.

In 2008, for the first time in my career, I pursued public office. I ran against Judge Danielson for this very position. I am the only person, since he took the seat in 1985, to express an interest in the position and have the strength of conviction to invest a significant amount of my own money into a campaign, because I had some ideas about the operation of the Court that I believed would improve the Court's service to the public. Over the course of the summer and fall, I went from five votes (myself, my wife, and three daughters) to nearly 7,000 votes out of a total of about 18,600 cast, in both counties, against an incumbent who had not been challenged in twenty four years.

I would assume that if the position remains available, others will express an interest in being appointed. I am the only person since 1985 that has demonstrated a willingness to work for it and my commitment to an honest day's work will not change. I believe that the functioning of the Court can be improved to better serve the community. The community deserves that. What it does not deserve is to be treated as some sort of "second class" entity because we are just one of those small towns up north. Are we different from the city? Absolutely, but we still need a District Court that can stand on its own and function to serve and protect our community.

Thank you for your time and consideration. Should you like to discuss any aspect of this matter further, I will do my best to make myself available, at your convenience

Sincerely,


John R. Brakora

**JOHN R.
BRAKORA**

ATTORNEY AT LAW

April 28, 2011

Senator Rick Jones
P.O. Box 30036
Lansing, MI 48909-7536

Re: Senate Bill 319

Dear Senator Jones:

I am writing this letter as a practicing attorney of 31+ years in Manistee, Michigan. In support of Senate Bill 319, you allege that, in addition to the savings to the State, the County stands to save some \$300,000 annually by the elimination of our District Judge position. Perplexed by that number, I contacted our County Administrator to inquire as to where that savings would come from. He had no clue.

The elimination of the Judgeship does not eliminate the need for administrative and support staff who process all of the required paperwork. That may be true downstate, but not here. Quite frankly, the county costs stand to increase because of the need to bring in visiting judges to handle some of the overload. Also, it is my understanding that when our existing magistrate retires, the plan is to replace her with an attorney magistrate, again, in an attempt to manage the caseload more effectively. That will be an additional cost to the county. I simply do not understand, and nobody seems to be able to tell me, where the "savings" come from.

In the meantime, trying to conduct business under the "new program" is an absolute nightmare. Just yesterday morning, I spent three hours dealing with a matter that should have taken, at most, half an hour. An overcrowded docket lies at the heart of the problem because of the limited judicial resources. This bill doesn't reduce the number of District Judges – it eliminates our ONE and ONLY District Judge and re-assigns his duties to two existing Probate/Family Court Judges who already have full time jobs. Imagine trying to do your job and then having someone come to you and tell you that you will now have an additional 65-70 things to do each week. That is our average case load in the District Court in Manistee County. That is what our existing Probate/Family Court Judge is being asked to pick up "in his spare time" (which he doesn't have).

Furthermore, the argument about "shifting populations" is absolutely without merit. The recently released census data shows a small INCREASE in the population

427 Water Street • PO Box 421 • Manistee, Michigan 49660 • ph/ 231-723-2591 • fax/ 231-723-8241

www.jrbrakoralaw.com

of Manistee County and a greater increase in Benzie, and that's not accounting for our seasonal residents, who are not reflected in the census numbers, as well as the large number of tourists who visit our area throughout the year. Also, to my knowledge, the 2010 caseload numbers are not yet available.

I understand that representations are being made that this action is "numbers driven". Please, please, please, don't just accept those numbers without scrutinizing the validity of them, because we, the people on the "receiving end" of this legislation, have an entirely different perspective. We are not Detroit. We are not being "downsized". We are being obliterated. The people of this community and Benzie, as well, deserve better than this "new, better way" is going to be capable of providing. It is an absolute recipe for disaster for Manistee and Benzie Counties. It is now difficult to get anything accomplished in a reasonable amount of time, and it seems to be getting worse with each passing week. It will soon be impossible.

Finally, allow me to acknowledge that I recognize that there is a lot of support for this legislation from very powerful sources. That does not justify unchallenged acceptance. A bad idea is a bad idea, no matter its source. If you have not experienced being a participant in any operation, you cannot understand how or why it works or doesn't work, and you certainly can't "fix it" from afar based upon the theoretical construct of someone else who has never "been there". Could our District Court make improvements in its operation? Certainly; but when your car needs an oil change, you don't have it hauled to the junkyard. That is what Senate Bill 319 does to Manistee and Benzie Counties.

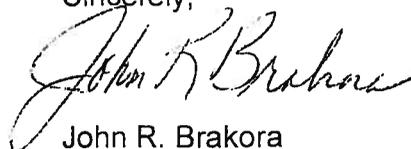
I would invite you, or a representative of your office, to come up and observe what has happened since this "better idea" has been unleashed upon our system. Wednesday in Manistee and Thursday in Benzie are the most common days when something can be "fit in" to try to accomplish any business in our District Court. It is an experience that you will not soon forget (although you may try).

In the alternative, if you or your committee, or any other entity, would like live, personal input from someone trying to function within this system, I will make every effort to make myself available, at your convenience.

Senator Rick Jones
Page 2
April 29, 2011

Thank you for your time and attention. Please, ask questions, examine details, and first and foremost, don't relegate the people of Manistee and Benzie counties to the junkyard. We deserve better.

Sincerely,

A handwritten signature in cursive script that reads "John R. Brakora". The signature is written in black ink and is positioned above the printed name.

John R. Brakora

cc: Senator Darwin L. Booher