

CONTRACT FOR THE PRINTING AND PUBLICATION OF
THE OFFICIAL REPORTS OF
THE MICHIGAN SUPREME COURT AND
THE MICHIGAN COURT OF APPEALS AND
THE MICHIGAN COURT RULES, AND
FOR THE PRODUCTION OF A CD-ROM PRODUCT AND
AN ONLINE SUBSCRIPTION SERVICE

MEMORANDUM OF AGREEMENT, made on the 27th day of January, 2004, between West Publishing Corporation, a corporation organized and existing under the laws of Minnesota, hereafter referred to as the Publisher, and the Supreme Court of the state of Michigan, hereafter referred to as the Court.

The parties mutually agree that the Publisher shall, for a term of 8 years beginning May 13, 2004, produce, distribute, and sell the Reports of the Michigan Supreme Court and the Michigan Court of Appeals, hereafter referred to as the Reports, in advance sheet, bound volume, and CD-ROM and online formats, and the *Michigan Rules of Court – State Rules* in accordance with the provisions and conditions hereafter enumerated.

ELECTRONIC TRANSFER AND TABLE GENERATION

1. All data to be included in the Reports and Court Rules volume under this contract shall be transmitted electronically from the Office of the Reporter of Decisions, hereafter referred to as the Reporter, except such items that are to be provided by the Publisher and items incapable of being transmitted to the Publisher by such a process. The latter exception encompasses, but is not limited to, items such as photographs, maps, graphs, etc. If direct telecommunication becomes impossible because of, e.g., telephone line or equipment failure, alternative methods of data transfer, such as the mailing of floppy discs, may be undertaken as a temporary measure at the discretion of the Reporter.

2. In order to implement electronic transfer, the Reporter shall maintain such equipment and employ the necessary personnel. Such employees shall be responsible for the coding, keying, proofreading, and correction of such materials as specified below.

3. The same flow of information shall apply to both the Supreme Court and Court of Appeals. The Reporter shall prepare the initial word processor advance sheet files using Microsoft Word for Windows or such other software as may be mutually agreed upon by the Reporter and the Publisher. These word processor files shall be transmitted by e-mail to the Publisher on a schedule determined by the Reporter; in no event will word processor files be provided to other parties or websites prior to transmission to the Publisher. When all the files needed to produce an advance sheet are ready for publication, automatically generated tables and other front and back pages will be prepared, typeset, paginated, and reviewed by the Publisher's legal staff.

4. The Publisher shall maintain custom-designed Microsoft Word translation programs or other software programs mutually agreed upon by the Reporter and the

Publisher, to translate word processor codes into the typesetting codes needed by the Publisher's typesetting system. The Publisher's translation program shall automatically translate all word processor formatting codes, such as bold, italics, small caps, footnotes, automatic numbering, auto-generated references, etc. The only codes that the Reporter's Office will need to insert are those indicating (1) block quotations; (2) the beginning of major sections, such as the headnotes, headnote catchlines, and digest headnotes; and (3) items to be included in automatically generated tables as indicated below.

The Publisher shall include research tables in both Supreme Court and Court of Appeals advance sheets and bound volumes as directed by the Reporter. The generation of these tables will be automated as far as is practicable. These tables shall be transmitted to the Reporter for review and correction. A list of the research tables and the requirements for the insertion of formatting codes in the text of the opinions by the staff of the Reporter's Office is set forth in the appendix.

ADVANCE SHEETS

5. The advance sheets of the *Michigan Reports* shall be published approximately 13 times a year. The advance sheets of the *Michigan Appeals Reports* shall be published biweekly, 26 times a year. Pagination of the opinion text shall be the same as that of the bound volumes. The format and typography shall be consistent with the advance sheets of volume 469 of the *Michigan Reports* and volume 259 of the *Michigan Appeals Reports*, and each issue shall be printed on ground wood paper that is equal or higher in quality than that used in those volumes.

The advance sheets shall be published on 35# Manistique text stock with the following specifications: PPI-730, Brightness-65, Opacity-91. The cover stocks for the advance sheets shall be: *Michigan Reports*-Domtar Blue 65# cover, *Michigan Appeals Reports*-Domtar Yellow 65# cover.

6. The Reporter shall provide by electronic transfer, the opinions, memoranda, headnotes, and such other materials that are to be included in a particular advance sheet.

7. A particular advance sheet shall contain opinions (appropriately headnoted), as designated by the Reporter and released to the Publisher at least 5 working days before the planned publication date. Appropriate research tables thereafter shall be generated by the Publisher. The Publisher shall ship each issue of the advance sheets within 5 working days after the Reporter's release date.

BOUND VOLUMES OF OFFICIAL REPORTS

8. Each volume of the Reports shall contain at least 700 pages of text, including syllabi and headnotes, and preliminary and supplementary pages as required. Whenever there are sufficient pages in the advance sheets for such a volume, the Reporter shall direct the Publisher to close out that volume and shall identify the pages of opinions to be included therein.

9. The bound volumes of the Reports shall be printed on paper that meets the minimum requirements of the American National Standard for Information Services – Permanence of Paper for Printed Library Materials, ANSI Z39.48-1984, or its equivalent, and shall be bound consistent in size and quality with volume 467 of the *Michigan Reports* and volume 257 of the *Michigan Appeals Reports*. The bound volumes shall be printed on 45# Offset text stock, with the following specifications: PPI-590, Brightness-84, Opacity-88.5. The cover stocks for the bound volumes shall be: *Michigan Reports*-Tan Linen Rec Buckram 17634K-01, *Michigan Appeals Reports*-Roxite F Vellum 67208. The bindings of the bound volumes will be Smythe sewn.

10. The opinions, headnotes, and memoranda included in the bound volumes of the Reports shall be identical to those published in the advance sheets, except for changes or corrections made by the Reporter. The research tables, indices, and other materials shall be automatically generated by the Publisher.

11. Minor corrections of the bound volumes will be communicated to the Publisher by telephone, facsimile, or electronic transmission. Major corrections requiring resubmission of the word processor case files will be made by the Reporter and transmitted to the Publisher. When all the cases to be included in a given bound volume are ready for publication, the Publisher will typeset, paginate, and transmit bound volume proofs within 5 working days of the receipt of all changes to the Reporter for approval. Such approval will be given at the discretion of the Reporter.

12. After the initial approval of the bound volume cases, the Publisher will produce the tables and other front and back pages. After review by the Publisher's legal editors, such materials will be transmitted to the Reporter for final approval.

13. No changes or corrections may be made after the Reporter has approved the revised pages to be included in a particular volume and has directed the Publisher to close out that volume.

14. Each volume of the Reports shall be shipped within 28 working days after the Publisher has received the Reporter's approval of revised pages as described in paragraph 12.

DELIVERY OF ADVANCE SHEETS TO THE STATE

15. The Publisher, at no charge to the Court, will deliver the first 365 copies of the Reports advance sheets to the persons whose names are supplied by the Reporter or such names as the Reporter shall hereafter designate, and such reasonable additional quantities as the Reporter shall designate, for use by the justices of the Supreme Court, the judges of the Court of Appeals, and the State Librarian at no charge to the Court.

DELIVERY OF BOUND VOLUMES TO THE STATE

16. The Publisher will provide the Court with up to 700 copies of each volume of the *Michigan Reports* and the *Michigan Appeals Reports*, at no charge to the Court, to be distributed by the Publisher as designated by the Reporter. Any other person designated by the Reporter may purchase such volumes at a 40% discount from the applicable public price.

INVENTORY AND REPRINTS

17. In addition to the number of volumes necessary to supply existing subscribers and the Court in the quantities specified in paragraph 16, the Publisher agrees to print and bind an estimated supply to meet demands for a period of 3 years. At the end of each 2-year period following execution of this contract, beginning May 13, 2006, the Publisher agrees to provide at no charge to the Court all copies of bound volumes of the Reports published in the preceding 2 years that have been published at least 6 months.

18. The Publisher shall notify the Reporter when the inventory of any volume is reduced to 50 copies and, upon agreement by the Publisher and the Reporter, shall reprint and bind that volume in a lot sufficient to supply demand for a period of 3 years at no charge to the Court. Title to such reprinted volumes shall vest in the Court.

PUBLIC SALE OF PRINTED ADVANCE SHEETS AND BOUND VOLUMES

19. The Publisher agrees to use its best efforts to promote the sale of the printed advance sheets and bound volumes published under this contract.

20. The Publisher shall, during the term of this contract, maintain at its place of business the bound volumes of Reports published and republished under this and earlier contracts in sufficient quantity to meet all demands. It shall not be required to do the printing or binding under this contract elsewhere than at its place of business.

21. The prices of the bound volumes and advance sheets to be sold to the public shall be:

- | | |
|---|-----------------|
| (A) Current bound volumes on subscription: | \$24.50 each |
| (B) <i>Michigan Reports</i> advance sheets: | \$96.50 a year |
| (C) <i>Michigan Appeals Reports</i> advance sheets: | \$136.00 a year |
| (D) Back issues of bound volumes: | |
| 1-10 volumes | \$13.75 each |
| 11-50 volumes | \$13.00 each |
| 51-150 volumes | \$12.50 each |
| 151-300 volumes | \$12.00 each |
| 301 volumes or more | \$11.75 each |

(E) Individual copies of advance sheets: \$3.75 each

(F) If no publication is issued on any scheduled biweekly publication date, a notice will be sent to each subscriber to that effect.

CD-ROM

22. The opinion text, syllabi, headnotes, actions on applications, and special orders contained in the Reports and advance sheets, as well as the texts of slip opinions yet to be published, will be included in a CD-ROM version of the Reports. During the term of this contract, the Court shall grant to the Publisher the exclusive right to include the Court's syllabi and headnotes in the Publisher's CD-ROM version of the Reports. Data for *Michigan Reports*, volume 300 to date, and *Michigan Appeals Reports*, volume 75 to date, will be provided to the Publisher in the form of magnetic tapes, offset negatives, and other materials to be transferred to the Publisher from Darby Printing Company.

23. Slip opinion files will be prepared by the Reporter's Office using Microsoft Word or other software programs mutually agreed upon by the Reporter and the Publisher. These files will be batched and transmitted to the Publisher on a schedule that is agreeable to the Reporter. After transmission, these files will be included on the next CD-ROM issue. Slip opinions that are eventually included in advance sheets will be automatically moved from the slip opinion database to the regular cases database on the next CD-ROM issue.

24. The Publisher will offer a comprehensive, user-friendly CD-ROM, titled Michigan Official Reports with Statutes and Court Rules CD-ROM. The materials on this product will include:

- Michigan Reports*, Volume 300 (1942) to date
- Michigan Appeals Reports*, Volume 75 (1977) to date
- Slip Opinions
- Michigan Statutes
- Michigan Court Rules
- Michigan Constitution
- United States Constitution
- Federal District Court Rules for the Eastern District and Western District of Michigan

A market analysis will also be performed to determine what additional materials are desired on the product by the end user.

25. The Publisher will use the printed edition as a guide in publishing Michigan Official Reports with Statutes and Court Rules CD-ROM. The CD-ROM will maintain

the same pagination, as far as possible, as in the printed bound volumes and advance sheets of the Official Reports. The CD-ROM will be published in an industry standard format that will allow the CD-ROM to be read by most CD-ROM players available on the market as of the date of this contract. From time to time during the term of this contract the Reporter and the Publisher will review CD-ROM subscription levels. If the Reporter and the Publisher mutually agree that subscription levels are insufficient, the Reporter and the Publisher may elect to discontinue the CD-ROM product.

26. This product will be updated bimonthly and will be available in Windows and Macintosh formats.

27. The Publisher will use PREMISE research software that will be fully functional on networked personal computers.

28. The CD-ROM product will be made available for general sale at the following prices:

Initial Subscription	\$604.00 first year
Renewal	\$604.00 a year
Network Price	15% of subscription price per additional user
Additional Copies	30% of subscription price per disc

Technical support for CD-ROM subscribers will be provided by the Publisher by toll-free telephone service 24 hours per day, 7 days per week.

ONLINE SUBSCRIPTION SERVICE

29. The opinion text, syllabi, headnotes, actions on applications, and special orders contained in the Reports and advance sheets, as well as the text of slip opinions yet to be published, will be included in an online version of the Reports. During the term of this contract, the Court shall grant to the Publisher the exclusive right to include the Court's syllabi and headnotes in the Publisher's online version of the Reports. The Publisher will develop and maintain the online version of the Reports on a website to be created and maintained by the Publisher from data supplied by the Reporter's Office and Darby Printing Company for the CD-ROM product, the advance sheets and bound volumes of the Reports, and West's *Michigan Rules of Court – State* publication. The Publisher expects the online subscription service to be available in the summer of 2004.

30. The online version of the Reports will include the same materials included in the CD-ROM product.

31. The Publisher will use the printed edition of the Reports as a guide in publishing Michigan Official Reports with Statutes and Court Rules Online. The online version will maintain the same pagination, as far as possible, as in the printed volumes and advance sheets of the Official Reports.

32. Subscribers to the online version of the Reports will be able to access the Publisher's website via a link on the Court's website.

33. Subscribers will be required to enter a username and password to gain access to the Publisher's website. The username and password will be created at the time an order for a subscription is processed; however, a subscriber will be able to manage the username and password, changing it as needed, via a tool available on the website. Once authenticated, the specified content may be retrieved using either Terms and Connections or Natural Language searching. The Publisher will also provide a link to the valid search connectors to help users construct an appropriate search or query.

34. Each paying subscriber to the Publisher's website will receive a free subscription to the advance sheets of the Reports.

35. The Publisher will create the website using Westlaw's online research technology, which will allow users to search for any word or group of words in any document in the database. All content accessed from the website will be retrieved real-time from Westlaw, providing content as up-to-date as that on Westlaw.

36. The Publisher, at no charge to the Supreme Court, will provide up to 100 subscriptions to the online service to persons whose names will be supplied by the Reporter's Office.

37. The online subscription will be made available to the public at \$750.00 per password a year. The Publisher will require that password sharing is strictly prohibited.

38. Technical support for online subscribers will be provided by the Publisher by toll-free telephone service 24 hours per day, 7 days per week.

COURT RULES

39. The Publisher shall make available for sale to the public West's *Michigan Rules of Court – State* publication in softbound format to be updated semiannually with a cumulative supplement.

40. The Reporter shall provide by electronic transfer updated materials to be included in a credit, note, or staff comment to a particular Court Rule. The Publisher shall provide to the Reporter proofs of each annual volume and of update supplements for review by the Reporter before a volume or supplement is printed. The Reporter and the Publisher will establish a mutually acceptable publishing schedule that ensures the updated materials are incorporated into the Court Rules in a timely manner.

41. The Publisher agrees to use its best efforts to promote the sale of the Court Rules and updates published under this contract.

42. The Publisher shall offer the Court Rules for public sale at \$40.00 each.

43. The Publisher, at no charge to the Court, shall deliver up to 250 copies of the Court Rules and up to 250 subscriptions to all updates to the Court Rules to those persons whose names are supplied by the Reporter.

44. The Court Rules publication will be copyrighted in the name of the Publisher. Upon termination of this contract, the Publisher agrees to provide the Reporter with an electronic copy of the most current Court Rules publication.

WESTLAW ACCESS

45. The Publisher will provide the Reporter of Decisions and his staff with 4 complimentary passwords to Westlaw legal databases for the term of this contract.

FREE ONLINE ACCESS TO OPINIONS

46. The Publisher will provide a link from the Michigan Supreme Court's website to an electronic version of the *Michigan Reports* from 1942 to 2000 and the *Michigan Appeals Reports* from 1977 to 2000 (not including syllabi and headnotes written by the Reporter's Office). The purpose of this link is to provide free public access to historical Michigan Reports data. The free online service will include the following notice on copyright and reuse of the data:

© State of Michigan. Any use or reuse of this data for commercial purposes is strictly prohibited.

The Publisher expects to provide the link to the historical Michigan Reports data in the summer of 2004.

ACCOUNTING AND REMITTANCE TO STATE

47. The Publisher agrees to make an annual accounting to the Court of the stock owned by the Court at the beginning of calendar year 2005 and the beginning of each succeeding year covered by this contract. The Publisher is entitled to retain the sale price of volumes sold, and is required to render a semiannual account showing the volumes sold and their sale price, together with a remittance to the Court of \$1.75 per copy sold during the period accounted for.

NONRENEWAL OF CONTRACT

48. If this contract is not renewed, upon notice of nonrenewal and direction by the Reporter, the Publisher, at no charge to the Court, shall deliver to the Court: (1) all magnetic tapes, offset negatives, and other materials employed in the manufacture of the Reports and Court Rules for print, CD-ROM, and online formats, in good order for printing or manufacturing; (2) all bound volumes of the Reports; (3) a copy of any

computer tapes not yet delivered under paragraph 51; and (4) a list of subscribers to the Reports.

COPYRIGHT

49. The Publisher shall be responsible for copyrighting the advance sheets, permanent bound volumes, CD-ROMs, and online service in the name of Michigan Supreme Court; the Court Rules shall be copyrighted in the name of West Group.

PRICE INCREASES

50. The Publisher, on an annual basis, may propose for approval by the Reporter's Office a reasonable price increase for the online subscription service and the print and CD-ROM Michigan Reports products. Approval by the Reporter's Office will not be unreasonably withheld.

The Publisher shall have the right to increase the price of the Court Rules volume on an annual basis, commensurate with increases West would charge to its existing subscribers to the *Michigan Rules of Court – State* publication.

OWNERSHIP OF SOURCES OF PRINTED MATERIALS AND CD-ROM

51. The magnetic tape, film, and other materials employed in the manufacture of the Reports used in offset plate or CD-ROM and online service preparation shall be the property of the Court, but shall remain in the possession of the Publisher for the term of this contract and any renewal thereof. The Court will be entitled, upon request and at no charge, to a copy of the computer tapes employed by the Publisher in its computerized typesetting process.

CITATION OF OFFICIAL REPORTS

52. The Supreme Court will continue to support and require the citation of the Reports.

CIVIL RIGHTS

53. Pursuant to the requirements of section 209 of 1976 PA 453, the Michigan Civil Rights Act, MCL 37.2209, and section 209 of 1976 PA 220, the Persons with Disabilities Civil Rights Act, MCL 37.1209, the Publisher, for itself and any subcontractor, will agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, because of race, color, religion, national origin, age, sex, height, weight, marital status, or disability unrelated to ability to perform the duties of the particular job or position. Any breach of such agreement may be regarded as a material breach of the contract.

SURETY BOND

54. At the time the Publisher enters into a contract with the Michigan Supreme Court, the Publisher will file with the Court a \$100,000 bond issued by a surety authorized to do business in Michigan and ensuring the Publisher's performance under the contract.

ASSIGNMENT OF RIGHTS AGAINST DARBY PRINTING COMPANY

55. In the event that Darby Printing Company does not comply with its contractual obligation to deliver warehoused bound volumes of the Reports to the Publisher at no charge to the Court, the Publisher will pay the cost of delivery and the Court will assign to the Publisher the Court's contractual right to such delivery by Darby.

GOVERNING LAW

56. All questions concerning the validity, interpretation, performance, or breach of the contract will be decided in accordance with the laws of Michigan.

West Publishing Corporation

The Supreme Court of the state
of Michigan

By: Malcolm Deonuer

By: Danilo Anselmo
Danilo Anselmo

Title: Vice President, Govt Segment

Title: Reporter of Decisions

Date: February 2, 2004

Date: January 27, 2004

APPENDIX
RESEARCH TABLES

Table of Cases Reported

No additional coding will be required in the text of opinions reported. Case opinions reported and small type when from the Actions on Applications and the Special Orders sections.

Table of Special Orders

Beginning and ending codes indicating MCR rule numbers will be inserted by the Reporter's Office staff. An additional code will be used to indicate the type of Order (proposed amendment, proposed rule, proposed code of judicial conduct, etc.).

Table of Administrative Orders and Court Rules Adopted.

Coding for this table will be similar to the coding for the Table of Special Orders.

Index Digest

This digest can be automatically created from the headnote coding. "See _____" references can be automatically created from multiple entries in the headnote catchlines, as long as the paragraphs in the digest headnote following the headnote catchline are used verbatim in the digest.