

STATE OF MICHIGAN

Attorney Discipline Board

FILED
ATTORNEY DISCIPLINE BOARD
12 OCT -2 PM 2:59

GRIEVANCE ADMINISTRATOR,
Attorney Grievance Commission,

Petitioner,

v

Case No. 12-52-GA

PETER W. MACUGA, II, P28114,

Respondent.

ORDER DENYING MOTION FOR APPOINTMENT OF MASTER

Issued by the Attorney Discipline Board
211 W. Fort St., Ste. 1410, Detroit, MI

The Attorney Discipline Board has considered respondent's motion to refer an evidentiary matter to a master, and petitioner's response, and is otherwise fully advised. The motion is **DENIED** for the following reasons.

MCR 9.115(A) provides: "Except as otherwise provided in these rules, the rules governing practice and procedure in a nonjury civil action apply to a proceeding before a hearing panel." Hearing panels, like judges in bench trials, regularly hear arguments about admissibility of evidence, and then appropriately proceed to hear the case, disregarding that which is inadmissible. We presume that the hearing panels are more than capable of performing this important function.

As this Board has said in *Grievance Administrator v Richard Austin*, 99-12-GA (ADB 2001): "This Board and the hearing panels are not juries. We can, and indeed often must, look at potentially inadmissible evidence in order to evaluate the evidentiary rulings of a panel." See also, *People v Jones*, 168 Mich App 191, 194; 423 NW2d 614 (1988), lv den 431 Mich 873 (1988) ("A judge, unlike a juror, possesses an understanding of the law which allows him to ignore such errors and to decide a case based solely on the evidence properly admitted at trial."). And see, the Board Chairperson's opinion in *Grievance Administrator v H. Wallace Parker*, 95-30-GA (ADB 1995) (denying disqualification sought "solely on the grounds that the panel members, during the course of the proceeding, have been exposed to information which may be inadmissible under the Michigan Rules of Evidence").

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ATTORNEY DISCIPLINE BOARD

By:

Thomas G. Kienbaum, Chairperson

DATED: October 2, 2012