Dear Referee:

Happy New Year to all! This letter marks RAM's first attempt at the production of a newsletter for our membership as I had threatened in previous communications. Our hope is to produce a somewhat regular, ideally readable and an interesting organ of communication, humor and professional substance for you, our membership. Of course, this goal can only be realized with your help and contributions — more on that below. Now, without further ado, and hearing no objections (and for lack of a better title) we humbly present:

REFERENTIAL NOTICE (#1)

BOARD NOTES: RAM's Executive Board currently meets quarterly, with our last two meetings having been held in October and December, 1985. Our next meeting is scheduled for for March 4, 1986 from 1:00 p.m. to 4:00 p.m. at Schuler's Restaurant in Jackson, MI with FOC/Referee, Ron Machnik serving as our host. Any RAM member is welcome to attend.

At our last Board meeting, we discussed the possibility of proposing a Michigan Court Rule to govern procedures in our hearings, and also to clarify and possibly make uniform the de novo review procedure. Executive Secretary Laura Cheger-Barnard (to whom credit should also go for jolting me into finally writing this) directed our attention to a proposed MCR (5.991) governing review of referees' recommendations in Juvenile Court proceedings as a possible model for a Rule for us Circuit Court Referees. The proposal may be found on p. 1264 of the November, 1985 issue of the Michigan Bar Journal. Please review it and let us have your comments on the advisability and format of such a rule for RAM members.

The Board also approved the concept of holding our next Annual Meeting along with the Family Law Section this summer on Mackinac Island. I have written to Section Chairperson, Bob Barnard for information, and as soon as I hear from him, I will send out word.

We generally discussed the training needs of referees, and what we could do to help fill them. You'll recall that the last (and only) training we officially received came two years ago in Higgins Lake, and we felt it was time to update in light of new statutes and caselaw. Particular need was expressed in the area of evidentiary matters. I have written to Ulysses Hammond of the FOC Bureau to request consideration of training for us and have received a copy of a letter written by Brenda Wagenknecht-Ivey of that Bureau to Mr. Dennis Catlin of the Michigan Judicial Institute indicating that the Bureau would appreciate seeing strides being made by MJI in the area of Referee Training. So far, no communication from Catlin on this, but Ron Foon, our Treasurer, has agreed to contact Art Olsen of the Institute personally to present our training request. We hope that you will communicate any training needs or suggestions to the Board so that we can help put together training(s) of benefit to all.
CASES: I would like to direct RAM members' attention to two cases that touch on our profession, one Federal and the other closer to home. The first is Pulliam v Allen, ___ US ___, 80 L Ed 2d 565, 104 S Ct ___ (1984). The Supreme Court held that a state judicial officer (a Virginia magistrate) was not immune from a 42 USC 1983 action for prospective injunctive relief, barring her unconstitutional actions, and more importantly, perhaps, that she could be held liable for attorneys' fees and costs, under section 1988, to the prevailing civil rights plaintiff's. Please take time to read this decision and think about its impact on you.

The second case is Mills v Mills, a Cass County divorce which recently went up to the Court of Appeals (# 89217, December 23, 1985) on motions for immediate consideration and peremptory relief. According to Cass County's Assistant FOC, Bill Thistlethwaite, their FOC/Referee held a hearing on plaintiff's petition for change of custody. Bill made findings of fact on which he based a recommendation for custody to be granted to plaintiff, removing the child from defendant. Plaintiff's attorney prepared an order in accordance, which defendant's attorney refused to sign. Plaintiff then moved for entry under the 7-day Rule, and the order changing custody was entered by the Cass Circuit. The Court of Appeals vacated the order, and stated: "Absent an emergency situation, a change of custody based on a referee's findings, prior to de novo hearing on motion duly made, is in violation of MCL 552.507 (d)(5)."

One possible implication of this is that, in custody-change situations, at least, the referee's recommendation must be held during the "appeal period" before being acted upon by the Court. The Family Equity Package provisions here may settle this, but I still feel a Court Rule would be desirable. What do you think? (to steal one from Norm Robbins).

MISCELLANY: Although I reported to the Board last month on the results in your questionnaires, I only received 20 of them back from you. We would like to hear from all of you so that RAM can attempt to respond to your needs. Any laggards out there who are still using the questionnaires as dust-collectors are invited to complete and send them in, as well as to send me your ideas about any of the matters raised in this letter.

REFERENTIAL NOTICE to come: Kamikaze-Referee, Doug Dok, of my office, has "volunteered" to serve as Editor for future editions of Referential Notice. He and I together will constitute the "Editorial Board" of this publication until someone else is foolish to wrest control from us. While our iron grip remains in place, however, Doug will graciously accept, review, delete expletives and publish your contributions to this effort. Send them to him at: Kent County Friend of the Court, 201 Hall of Justice, 333 Monroe, N.W., Grand Rapids, MI 49503. Doug promises to print "All the news that will give you fits."

Looking forward to hearing from all you Referees, I remain,

Yours very truly,

Jon T. Ferrier, President,
Referees Association of Michigan