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Corbin Davis  
Clerk of the Court  
Michigan Supreme Court  
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Lansing, MI 48909

306 Townsend Street

Michael Franck Building

Lansing, MI

48933-2012

**RE: ADM File No. 2010-07 – Proposed Amendment of Rule 1.5 of the Michigan Rules of Professional Conduct**

Dear Clerk Davis:

At its July 22, 2011 meeting, the Board of Commissioners of the State Bar of Michigan considered the above rule amendment published for comment. In its review, the Board considered recommendations to oppose the proposal from its Civil Procedure & Courts Committee and Professional Ethics Committee. The Board agreed with the recommendations and voted to oppose the proposed amendment. Neither the committee members nor the Board members were aware of any credible argument in favor of the change. The discussion by the Board centered on two main points: the value to the public of the ability to contract freely, and the advantages to the client of a referral system that encourages the referral of cases to attorneys with the most applicable practice expertise.

The principle of freedom of contract should be limited only in the face of compelling evidence that a restriction is necessary for the public good. In the case of client referrals, clients have long benefitted from the ability of lawyers to contract freely within the economic marketplace for business. Lawyers are bound by important ethical rules, and function within a business environment. The practice of allowing the legal marketplace to drive the terms of contract negotiations for the provision of legal services has worked well historically, and we are unaware of any evidence to suggest that a change would provide any benefit to the public. On the contrary, we believe that the proposed change threatens optimal availability of legal representation.

Further, limiting the cap on the referral fee may inadvertently discourage the practice of referring cases to attorneys better suited to a client's needs. Referring a case can have many advantages to a client, such as ensuring the highest level of review and scrutiny of each case by an attorney expert in the field. Because referral can result in more expert scrutiny of a case, it may also have the benefit of diminishing the number of non-meritorious cases.

We thank the Court for the opportunity to comment on the proposed amendment. Please contact me with any further questions.

Sincerely,



Janet Welch  
Executive Director

cc: Anne Boomer, Administrative Counsel, Michigan Supreme Court  
W. Anthony Jenkins, President