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September 30, 2011

Corbin Davis
Clerk of the Court
Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

RE: ADM File No. 2010-13 – Proposed Amendment of Rule 6.001 of the Michigan Court Rules

Dear Clerk Davis:

At its September 27, 2011 meeting, the Executive Committee of the State Bar of Michigan considered the above rule amendment published for comment. The Committee voted unanimously to adopt the position of the Criminal Law Section and the significant amount of comment already recorded with the Court. The State Bar supports moving in the direction of creating greater opportunity for discovery as an important due process right.

The Criminal Law Section supports the efforts of the Supreme Court to expand discovery at the district Court level and suggests the following language:

1. Explicitly amend 6.001(A) to provide discovery prior to preliminary exams.
2. Explicitly amend 6.001(B) to include 6.201 among rules applying to misdemeanor cases, and thereby provide discovery for misdemeanors in district court.

The consensus is that while MCR 6.201 may not be applicable prior to a preliminary examination, the court rules should recognize a right to discovery that is needed to properly prepare for a preliminary examination. In summary, the Section supports an amendment to provide discovery prior to preliminary examinations, and includes 6.201 among rules applying to misdemeanors, providing discovery in misdemeanor cases.

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

Sincerely,

Janet K. Welch
Executive Director

cc: Anne Boomer, Administrative Counsel, Michigan Supreme Court
Julie I. Fershtman, President