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March 26, 2019

Mr. Larry S. Royster
Clerk, Michigan Supreme Court
Michigan Hall of Justice
P.O. Box 30052
Lansing, MI 48909

Re: ADM File No. 2017-17, Proposed Restitution Amendments

Dear Mr. Royster:

I am writing about ADM File No. 2017-17, which includes several proposed court rule amendments concerning restitution.

As the Court's Order states, the proposed amendments are based in part upon an original submission by SADO. In that original submission, SADO sought clarification that the trial court must determine the amount of restitution "[p]rior to imposing sentence," and that the Court "may adjourn sentencing for good cause pending the determination." July 26, 2017 SADO Letter at 4-5. The purpose of these suggestions was to address the "uncertainty and confusion" that often arises when restitution is imposed or amended during the pendency of an appeal.

That said, SADO has reexamined aspects of this proposal since other stakeholders have had the opportunity to comment. Based on concerns that have been expressed since the publication of these proposed amendments, SADO understands that requiring trial courts to determine restitution at sentencing would likely force delays in sentencing—which in many cases would lead to longer confinement for criminal defendants. SADO asks the Court not to adopt the specific amendments proposed in MCR 6.425(E)(1)(f) or MCR 6.427(11). We remain supportive of the remainder of the proposed amendments.

I regret that these concerns were not appreciated or articulated in SADO's July 26, 2017 Letter, but I hope the Court will take them into consideration now. While a more streamlined and straightforward appellate process is a laudable goal, it should not come at the expense of our clients' freedom.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jonathan Sacks', with a stylized flourish at the end.

Jonathan Sacks
Director