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March 1, 2019

Ms. Anne Boomer
925 W. Ottawa
Lansing, MI 48915

Dear Ms. Boomer:

The Michigan District Judges Association has considered at length the proposed amendment of MCR 6.001 found at ADM file no. 2018-23. We support adding the discovery court rule found at MCR 6.201 to the list of court rules in MCR 6.001(B) which apply to misdemeanor cases.

Being convicted of a misdemeanor which may result in a person's spending 90 to 365 days in jail can have a significant effect on a defendant's life mentally, emotionally, physically and financially. These defendants are entitled to a level playing field with the prosecution. Many prosecutors provide discovery to defense attorneys as a matter of course because it is the right thing to do. But a defendant should not have to rely on the chance that he or she will be facing one of those prosecutors instead of one who tries to withhold information. One of our members stated, "Sharing all information just seems an inherently fundamental aspect of due process."

We recognize that MCR 6.201(I) would allow a court to modify the requirements and prohibitions of the rule "upon good cause shown."



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The district court may need to rely on this provision in instances where discovery requests are overly burdensome in a relatively minor case like having an improper plate on a car or failing to have a driver's license in one's possession. Another one of our members stated, "Justice may not be served, however, by voluminous discovery in every misdemeanor case. For example, if a person receives a misdemeanor ticket for possession of open intoxicants in public, he or

she may prefer to have the case resolved at the first court appearance if the prosecuting official offers to reduce it to a civil infraction." She further noted that the prosecuting official may not know if there is a police report with a ticket so discovery at this stage would not be practical. We would hope that district court judges would have substantial discretion in determining whether discovery should be limited in low level misdemeanors.

We appreciate your considering our request to expand the availability of discovery in district court criminal cases.

Sincerely,

Hon. Julie Reincke
MDJA Court Rules Committee