

Michigan Supreme Court
925 W. Ottawa Street
Lansing Michigan 48909

RE: ADM File No. 18-23

I write as President of Criminal Defense Attorney of Michigan (CDAM). CDAM opposes the proposed amendment of MCR 6.001(B) which adds MCR 6.201 to the court rules applicable to misdemeanor cases and asks this Court to reject the amendment. CDAM opposes adding MCR 6.201 because it requires reciprocal discovery. Reciprocal discovery is an unworkable and unfair burden on counsel in misdemeanor cases. It is fundamentally unfair to the many defendants who proceed without counsel in the district courts. It will impose new burdens on the district court judges. It is an unnecessary change to longstanding practice in Michigan courts.

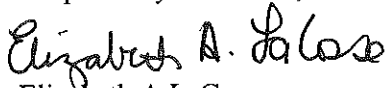
Reciprocal discovery is unworkable for misdemeanor counsel. The time lines for compliance with MCR 6.201 cannot be reasonably met by competent and diligent counsel who must also comply with the scheduling orders set by many district courts obliged to comply with SCAO time recommendations or their own policies for resolving misdemeanors cases.

Reciprocal discovery is fundamentally unfair to defendants who decline counsel in the district courts and proceed pro se. MCR 6.201 imposes many obligations on the parties and harsh sanctions for violations. Under MCR 6.201 (J), the parties are urged to bring questions of noncompliance to the district court "at the earliest opportunity". Discovery disputes create delay in adjudication. Sanction violations are subject to review. Most pro se defendants are ill-equipped to understand and address these matters and the district courts will be burdened with resolving these discovery disputes.

Reciprocal discovery is also an unnecessary change to the longstanding and current practices of misdemeanor defense. Anecdotally, prosecutors already provide the information listed in MCR 6.201 to the defense. The chief result of imposing reciprocal discovery in misdemeanor cases is to increase the obligations of defense counsel without any commensurate benefit to a defendant.

For the reasons stated in this letter, CDAM opposes the proposed amendment of MCR 6.001 which adds MCR 6.201. Thank you for considering our comments.

Respectfully submitted,



Elizabeth A LaCosse
CDAM President