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July 27, 2017

Larry Royster  
Clerk of the Court  
Michigan Supreme Court  
P.O. Box 30052  
Lansing, MI 48909

**RE: ADM File No. 2015-11: Proposed Amendment of Rule 404(b) of the Michigan Rules of Evidence (May 24, 2017 Order)**

Dear Clerk Royster:

At its July 21, 2017 meeting, the State Bar of Michigan Board of Commissioners (the Board) considered the above-referenced proposed amendments published by the Court for comment. In its review, the Board considered recommendations from the Criminal Jurisprudence & Practice Committee and the Criminal Law Section.

After this review, the Board voted unanimously to support the rule amendment as set forth in the May 24, 2014 Order for ADM 2015-11.<sup>1</sup> As expressed in its February 28, 2017 letter to the Court,<sup>2</sup> the Board continues to support requiring a prosecutor to provide notice of his or her intent to introduce evidence under MRE 404(b) either in writing or orally in open court. The notice requirement helps to ensure that appropriate notice has been given and assists judges in determining the reasonableness of that notice and the admissibility of the evidence that the prosecutor seeks to introduce.

The Court now proposes adding a 14-day deadline from the date of trial for the prosecutor to provide the MRE 404(b) notice. The Board supports adding this time deadline to further ensure that meaningful notice has been given to defendants and the court and that defendants have sufficient time to raise any objections to the evidence that the prosecutor seeks to introduce and prepare for trial.

We thank the Court for the opportunity to convey the Board's position.

Sincerely,

Janet K. Welch  
Executive Director

cc: Anne Boomer, Administrative Counsel, Michigan Supreme Court  
Lawrence P. Nolan, President, State Bar of Michigan

<sup>1</sup> The Board also authorized the State Bar of Michigan Criminal Jurisprudence & Practice Committee and Criminal Law Section to advocate their positions directly to the Court.

<sup>2</sup> The Board's February 28, 2017 letter responded to proposed amendments to MRE 404(b) set forth in the November 2, 2016 Order for ADM 2015-11.