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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. 2008-36 – Proposed Amendment of Rule 7.202 of the Michigan Court Rules and Proposed Adoption of Administrative Order No. 2011-XX

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 oppose both published alternatives.

In its consideration of the above rule amendment, the Committee reviewed a recommendation from the Criminal Jurisprudence & Practice Committee. The Committee's rationale is set forth below:

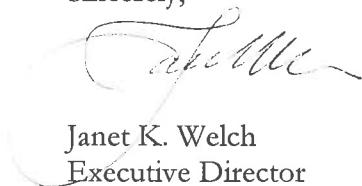
The committee feels that neither alternative is needed. Under Michigan law there is already a procedure in place for the prosecutor to file an application for leave to appeal and request a stay. If the trial court and the Court of Appeals wrongfully deny a stay, the Supreme Court can easily reverse and grant a stay pending the appeal.

Alternative A changes Michigan law by its re-definition of a 'final judgment' or 'final order' and affords the prosecutor rights not similarly available to the defense. Alternative B bypasses established appellate rules and also affords to the prosecutor a right not similarly available to the defense. Both alternatives also eliminate the discretion by the trial court and Court of Appeals, as needed, to grant or deny a stay of proceedings.

Although the Bar opposes both published alternatives, there is continued interest in this issue, and we have asked the relevant State Bar entities to expeditiously review other possible court rule changes in light of *People v. Richmond*, especially given the recent Supreme Court decision in *People v. Wright, Jr.* If their review yields suggestions for amendments we will communicate those suggestions to you promptly.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Janet Welch", is written over a circular stamp or watermark.

Janet K. Welch
Executive Director

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