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306 Townsend Street
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The Honorable Jack Brandenburg
State Senator
State Capitol
P.O. Box 30036
Lansing, MI 48909-7536

Re: SB 0149 – Affidavit of Merit

Dear Senator Brandenburg:

At its June meeting, the State Bar of Michigan's Board of Commissioners voted to **oppose SB 149 (S-1)**. Although the bill's intent to reduce frivolous lawsuits is a laudable goal, the Board is concerned that, as currently drafted, the bill would impair the public's access to the courts by imposing onerous restrictions on meritorious claims.

Some of the specific concerns with the S-1 substitute version of the bill include:

- The bill requires that the individual signing an affidavit of merit must be licensed in the state of Michigan. This is unreasonably restrictive.
- The bill includes no requirement for the defendant to provide an affidavit of meritorious defense. Affidavits of meritorious defense are required when affidavits of merit are filed in medical malpractice cases (MCL 600.2912e).
- There is no requirement on the defendant to engage in good faith discovery during the period that the affidavit of merit is required which could jeopardize the plaintiff's ability to obtain a competent affidavit of merit.

Finally, in addition to the matters above, there is a concern that requiring affidavits of merits for architects and engineers results in different rules of law for different litigants, and absent a compelling reason for differential treatment, a uniform approach and application of the law to all litigants is favored.

If you would like to discuss this position in further detail or have questions, please contact me directly at your convenience.

Sincerely,

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CC. Thomas C. Rombach, President
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