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August 14, 2012

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Clerk of the Court

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Michigan Supreme Court

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Lansing, MI 48909

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Lansing, MI

48933-2012

**RE: ADM File No. 2011-03 – Proposed Amendment of Rule 9.113 of the Michigan Court Rules**

Dear Clerk Davis:

At its July 27, 2012, meeting, the Board of Commissioners of the State Bar of Michigan considered the above rule amendment published for comment. The Board voted to oppose the amendment.

The State Bar of Michigan opposes the proposed revision of MCR 9.113, preferring that the wording of MCR 9.113 remain as written. The rule as written provides discretion to the grievance administrator to withhold the entirety of a lawyer's response to a request for investigation from the complainant. Such withholding may be appropriate in very limited circumstances, such as when the complainant and the lawyer are already in litigation and the complainant is effectively using the grievance process as an additional avenue for discovery, because the lawyer is compelled to respond to the allegations made in the complaint. The proposed language would require the delivery of what could be identified as the responding lawyer's "answer" from among all of the documents a lawyer might submit, which might be difficult to discern as responses to requests for investigation are not pleadings -- they are letters with, frequently, a number of attachments. The discretion afforded by the current language is cleaner and more easily administered in the small minority of situations where a reason to withhold material from the complainant is evident.

We thank the Court for the opportunity to comment on the proposed amendment.

Sincerely,



Janet K. Welch  
Executive Director

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