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July 1, 2009

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The Honorable David Nathan
State Representative
State Capitol
P.O. Box 30014
Lansing, MI 48909-7514

306 Townsend Street

Michael Franck Building

Lansing, MI

48933-2012

The Honorable Rashida Tlaib
State Representative
State Capitol
P.O. Box 30014
Lansing, MI 48909-7514

RE: HB 4885 & HB 4886 Jury Reform – Pool Selection

Dear Representatives Nathan and Tlaib:

The State Bar of Michigan was honored to present testimony with you at the June 16, 2009 hearing of the House Judiciary Committee in Detroit. Anne Vrooman participated under the authority of the State Bar's Board of Commissioners, which voted to support the concept of expanding jury pools at its June meeting. We have enclosed a written copy of Ms. Vrooman's testimony for your records.

We look forward to continuing our work with you on this important effort. We stand ready to assist as the discussion advances.

Sincerely,



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**Statement of Anne M. Vrooman, Director of Research and Development
State Bar of Michigan**

**HB 4885 (Tlaib) and HB 4886 (Nathan) - Revisions to Jury Pool Selection Process
House Judiciary Committee – June 19, 2009**

306 Townsend Street
Michael Franck Building
Lansing, MI
48933-2012

Mr. Chairman and members of the House Judiciary Committee: My name is Anne Vrooman. I am the Director of Research and Development for the State Bar of Michigan. I have held that position for the past three years, coming to the State Bar after nearly fifteen years with the Michigan Supreme Court and State Court Administrative Office, where I worked on jury issues in my roles as Director of Intergovernmental Relations and Senior Management Analyst.

On behalf of the State Bar of Michigan I appreciate this opportunity to appear before you today to participate in this important hearing. The State Bar of Michigan is pleased to speak in favor of these bills and we applaud you for focusing on the critically important topic of improving the jury selection process to increase the opportunity for increased citizen participation in jury service. The American Bar Association Principles for Juries and Jury Trials states as Principle 10 – **COURTS SHOULD USE OPEN, FAIR, AND FLEXIBLE PROCEDURES TO SELECT A REPRESENTATIVE POOL OF PROSPECTIVE JURORS.**

It is on two aspects of the bill that I would like to comment, first the use of multiple source lists, and second, the proposed stratification technique.

For many years Michigan has used only the combined driver's license and personal identification cardholder list as the sources list for jurors. The bill proposes that the source list for jurors be expanded to add the voter registration list and the state income tax list. This would be a welcome improvement, consistent with the ABA Principles for use of multiple source lists, and make Michigan more in line with the best practices of jury management. Studies by the National Center for State Courts Center for Jury Management have shown that each of various lists potentially brings a different value into the overall mix. One of the key attractions of the state income tax list is that because it is updated annually, it is likely that it contains the most accurate and current address information, which is critical to the jury selection process. The use of multiple lists brings new challenges to the process and would require new procedures. One of the major challenges is the time-consuming but important process of eliminating duplicate names. It is critical to do so because otherwise an individual could have a double or triple chance of being called for jury service. The merging and purging function of combining the lists into a single source list must be done carefully and accurately in order to avoid problems. Consideration might be given to this step

occurring at the state level, delivering the combined list to each of the counties, rather than placing the burden on each county for this process.

The stratification technique proposed in Sec. 1312 proposes that the jury list use zip codes within each county, matching the proportion of the population in each zip code from the most recent federal census to achieve greater representation. While some stratification techniques might be helpful in achieving representativeness in some counties, it may not be necessary in all counties and may present a burden with the additional steps required. And in the counties where it is perhaps most useful, the tie to the census may not produce an achievable result as the census includes people who would not be eligible for jury duty, in particular those who have been convicted of a felony, noncitizens, and those with other exemptions. While we do not oppose the use of stratification techniques or strategies such as supplementing lists, we recognize that this can be a tricky undertaking in order not to run afoul of procedures that would raise new challenges.

We are aware that the National Center for State Courts conducted a comprehensive assessment of the Wayne County Jury System in 2006 and made a number of recommendations aimed at improving the representativeness of juries in Wayne County. Two key recommendations were changes that perhaps would result in a marked increase in the representativeness. 1) Discontinue the suppression file practice of removing the names of individuals who fail to respond to the qualification questionnaire from the Master Jury List and 2) Re-implement a follow-up program of second notices and other actions to increase the number of eligible jurors. Both of these practices have resulted in a significant reduction of the number of persons held on the master jury list, some by self-selecting not to respond with no further action, and then permanently held out of subsequent opportunities. If these recommendations have been implemented and have resulted in improved representativeness, we ask that there be consideration of whether there is a continued need for a stratification requirement to be included, and if in fact the circumstances in some counties warrant such procedures, whether it might be available to those counties without it being imposed on all counties.

Again, on behalf of the State Bar of Michigan I appreciate this opportunity to appear before you and participate in this important hearing. I will be glad to answer any questions that you may have concerning the position of the State Bar of Michigan.