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December 12, 2019

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

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

RE: ADM File No. 2014-46: Proposed Amendment of Rule 6.508 of the Michigan Court Rules

Dear Clerk Royster:

At its November 22, 2019 meeting, the State Bar of Michigan Board of Commissioners (Board) considered the above-referenced proposed rule amendments published by the Court for comment. As part of its review, the Board considered recommendations from the Access to Justice Policy Committee, Criminal Jurisprudence & Practice Committee, and Appellate Practice Section.

Based on this review, the Board unanimously voted in support of combining Alternative A and a modified version of Alternative B as each alternative is valuable and addresses potentially different circumstances. MCR 6.508, therefore, should be amended as followed (modified language to Alternative B is highlighted in gray):

(2) alleges grounds for relief which were decided against the defendant in a prior appeal or proceeding under this subchapter, unless the defendant establishes that a retroactive change in the law has undermined the prior decision; **for purposes of this provision, a court is not precluded from considering previously-decided claims in the context of a new claim for relief, such as in determining whether new evidence would make a different result probable on retrial, or if the previously-decided claims, when considered together with the new claim for relief, create a significant possibility of actual innocence.**

These amendments will allow courts to fully consider previously-decided claims alongside new motions for relief from judgment. We thank the Court for the opportunity to convey the Board's position on this rule proposal.

Sincerely,



Janet K. Welch
Executive Director

cc: Anne Boomer, Administrative Counsel, Michigan Supreme Court
Dennis M. Barnes, President, State Bar of Michigan