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August 28, 2018
Larry Royster
Clerk of the Court
Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

RE: ADM File No. 2017-25: Proposed Amendment of Rule 7.1 of the Michigan Rule of Professional Conduct

Dear Clerk Royster:

The State Bar of Michigan (SBM) thanks the Court for publishing for comment the proposed amendments to Rule 7.1 of the Michigan Rules of Professional Conduct (MRPC). SBM had previously proposed a different version of this rule amendment for the purpose of clarifying the titles that former and retired judicial officers may use when they return to the practice of law or become involved in law-related activities.

As noted in our July 2017 letter, it is becoming increasingly common for retired and former judicial officers to return to the practice of law or become involved in law-related services, such as serving as arbitrators or mediators. When a retired or former judicial officer engages in these activities, his or her use of the title "Justice," "Judge," or "Hon." is potentially problematic if done in a way that leads clients or members of the public to believe that the retired or former judicial officer has influence over the judicial system or legal proceedings that he or she does not have. Currently, the MRPC provides no guidance on the titles that retired or former judicial officers may use when subsequently engaged in the practice of law or law-related services.

At its July 27, 2018 meeting, the SBM Board of Commissioners (Board) considered the amendments to MRPC 7.1 proposed in AO 2017-25. As part of its review, the Board considered a recommendation to support the version of the rule amendment proposed in AO 2017-25 from the Professional Ethics Committee, which is the committee that developed the rule proposal that SBM had originally submitted.

After this review, the Board voted unanimously to support the proposed amendments to MRPC 7.1 as proposed in AO 2017-25. The proposed rule amendment provides clear guidance as to the titles that retired and former judicial officers may use when subsequently engaged in the practice of law or delivery of law-related services and achieves the same objective intended by the Representative Assembly when it supported the amendments initially proposed by SBM in its July 2017 letter.

We thank the Court for the opportunity to convey SBM's position on this rule proposal.

Sincerely,

Janet K. Welch
Executive Director

cc: Anne Boomer, Administrative Counsel, Michigan Supreme Court
Donald G. Rockwell, President, State Bar of Michigan