SBM STATE BAR OF MICHIGAN

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August 1, 2014

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

RE: ADM File No. 2013-11 – Proposed Amendments of Rules 9.106 and 9.128 of the Michigan Court Rules

Dear Clerk Royster:

At its July 25, 2014 meeting, the Board of Commissioners of the State Bar of Michigan considered the above proposed rule amendments published for comment. The Board voted to oppose the proposed amendment. Defining fines, penalties, and forfeitures as restitution, and allowing restitution calculations to be based on something other than actual pecuniary losses, introduces an element of vagueness to the determination. Without established standards, the restitution calculation could become arbitrary and inconsistent, inhibit resolutions, and deprive attorneys of substantial rights. Although an amendment to the existing rules may be merited, the ambiguity in the proposed amendments would effectively vest judicial power in a non-judicial board.

We thank the Court for this opportunity to comment on the proposed amendments.

Sincerely,

Janet K. Welch
Executive Director

cc: Anne Boomer, Administrative Counsel, Michigan Supreme Court
Brian D. Einhorn, President