

June 30, 2023

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

RE: ADM File No. 2023-06 – Proposed Amendments of Rules 6.110 and 8.119 of the Michigan Court Rules

Dear Clerk Royster:

At its June 9, 2023 meeting, the Board of Commissioners of the State Bar of Michigan considered ADM File No. 2023-06. In its review, the Board considered recommendations from the Access to Justice Policy Committee and Criminal Jurisprudence & Practice Committee. The Board voted unanimously to support the proposed amendment of Rule 6.110, but to oppose the proposed amendment of Rule 8.119.

As to Rule 6.110, the Board believes that it would be beneficial to require that motions, responses, and orders entered by the district court be included among the records transmitted to the circuit court after bindover. Including these additional documents as a matter of course will ensure that a more complete record of the lower court proceedings is readily available.

As to Rule 8.119, the Board understands and shares the desire to ensure that certain records (e.g., those related to set aside convictions) are not publicly available but believes that the proposed amendment is overinclusive and a more narrowly tailored approach is required. The Board noted that both prosecutors and defense attorneys must regularly access information in district court case records, even following bindover, for a variety of reasons related to their respective practices. Strictly in terms of the population of individuals impacted by such a broad approach, the unintended, negative consequences of this proposed amendment far outweigh the benefits it would provide.

Thank you for the opportunity to comment on the proposed amendments.

Sincerely,



Peter Cunningham
Executive Director

cc: Sarah Roth, Administrative Counsel, Michigan Supreme Court
James W. Heath, President