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July 5, 2016

Mr. Larry S. Royster
Clerk, Michigan Supreme Court
Michigan Hall of Justice
P.O. Box 30052
Lansing, Michigan 48909

re: ADM File 2013-39
Proposed Amendment of Rule 6.112 of the Michigan Court Rules

Dear Mr. Royster:

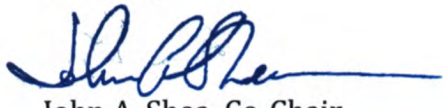
On behalf of the Criminal Defense Attorneys of Michigan, I write in opposition to the proposed amendments to MCR 6.112. Our reasons include those stated in the letters in opposition submitted by Dawn Van Hoek, Director of the State Appellate Defender Office and Anne Yantus, Director of Clinical Programs at the University of Detroit Mercy School of Law.

As this Court knows, a very small percentage of criminal cases are resolved by trial. The vast majority are resolved in some kind of negotiated fashion. Many of those do not reach resolution until after the deadline that exists at present for a prosecutor to provide notice that it will seek to enhance a defendant's sentence pursuant to Michigan's habitual offender statute. Even where a defendant proceeds to trial, passage of that same deadline alerts a defendant to what is his or her ultimate exposure if convicted.

Having a bright line rule that limits when a prosecutor may seek a greater sentence as a habitual offender promotes greater certainty in negotiations and decision-making. This is not just laudable, but essential, and we believe the rules at present better serve these important goals than will the proposed amendments.

For these reasons, together with those stated by Ms. Van Hoek and Ms. Yantus, CDAM opposes the proposed amendments. Thank you for your consideration of our position. As always, we appreciate the opportunity to provide this comment.

Sincerely,



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