

**Agenda**  
**Public Policy Committee**  
**November 20, 2024 – 2:00 p.m. to 3:30 p.m.**  
**Via Zoom Meetings**

*Public Policy Committee.....Lisa J. Hamameh, Chairperson*

**A. Reports**

1. Approval of September 18, 2024 minutes
2. Public Policy Report

**B. Court Rule Amendments**

**1. ADM File No. 2020-08: Proposed Amendments of MCR 2.107 and 3.203**

MCR 2.107(G) was adopted and simultaneously published for comment by the Court on July 26, 2021. The proposed amendment of MCR 2.107 in this order reflects an alternative proposal that would expand the use of electronic service by requiring its use unless a party opts out, as suggested by some commenters on the original proposal. The proposed amendment of MCR 3.203 clarifies the use of electronic service in domestic relations cases.

Status: 01/01/25 Comment Period Expires.

Referrals: 09/19/24 Access to Justice Policy Committee; Civil Procedure & Courts Committee; All Sections.

Comments: Access to Justice Policy Committee; Civil Procedure & Courts Committee; Family Law Section.

Comments provided to the Court are included in materials.

Liaison: Ashley E. Lowe

**2. ADM File No. 2021-27: Proposed Amendments of MCR 3.207 and 3.210**

The proposed amendment of MCR 3.207 would: (1) clarify the pleading requirements for requesting certain ex parte orders, (2) require that an evidentiary hearing be scheduled anytime the court enters an order that may change a child's established custodial environment, and (3) clarify the procedure following service of an ex parte order. The proposed amendment of MCR 3.210 would require courts to hold an evidentiary hearing prior to entering an order changing a child's established custodial environment in contested cases.

Status: 01/01/25 Comment Period Expires.

Referrals: 09/19/24 Access to Justice Policy Committee; Civil Procedure & Courts Committee; Children's Law Section; Family Law Section.

Comments: Access to Justice Policy Committee; Civil Procedure & Courts Committee; Family Law Section.

Liaison: Lori A. Buiteweg

**3. ADM File No. 2022-59: Proposed Amendment of MCR 6.302**

The proposed amendment of MCR 6.302 would require courts, after accepting a plea, to advise defendants of their ability to withdraw their plea and to specifically advise defendants of the consequences of misconduct in between plea acceptance and sentencing.

Status: 01/01/25 Comment Period Expires.

Referrals: 09/05/24 Access to Justice Policy Committee; Criminal Jurisprudence & Practice Committee; Criminal Law Section.

Comments: Access to Justice Policy Committee; Criminal Jurisprudence & Practice Committee.

Liaison: Takura N. Nyamfukudza

#### **4. ADM File No. 2023-07: Proposed Amendment of MCR 6.433**

The proposed amendment of MCR 6.433 would require an indigent defendant to provide certain information before a court can consider whether good cause exists to order transcription of additional proceedings.

Status: 01/01/25 Comment Period Expires.  
Referrals: 09/24/24 Access to Justice Policy Committee; Criminal Jurisprudence & Practice Committee; Criminal Law Section.  
Comments: Access to Justice Policy Committee; Criminal Jurisprudence & Practice Committee. Comment provided to the Court is included in the materials.  
Liaison: Patrick J. Crowley

#### **5. ADM File No. 2022-51: Proposed Amendment of MCR 6.509**

The proposed amendment of MCR 6.509 would clarify that defendants may file with the Court of Appeals an application for leave to appeal a trial court's decision on: (1) a motion for relief from judgment; and (2) a timely-filed motion to reconsider an order deciding a motion for relief from judgment. Note that a separate proposal affecting MCR 6.509(A) is proposed under ADM File No. 2022-57.

Status: 01/01/25 Comment Period Expires.  
Referrals: 09/19/24 Access to Justice Policy Committee; Criminal Jurisprudence & Practice Committee; Appellate Practice Section; Criminal Law Section.  
Comments: Access to Justice Policy Committee; Criminal Jurisprudence & Practice Committee; Appellate Practice Section.  
Liaison: Douglas B. Shapiro

#### **6. ADM File No. 2022-57: Proposed Amendments of MCR 6.508 and 6.509**

The proposed amendments of MCR 6.508 and 6.509 would: (1) require trial courts that make a partial decision on a postjudgment motion for relief to reissue the order in its entirety after it decides the remaining issues, and (2) clarify that a reissued order constitutes a decision under subchapter 6.500 of the Michigan Court Rules for purposes of filing an application for leave to appeal with the Court of Appeals. Note that a separate proposal affecting MCR 6.509(A) is proposed under ADM File No. 2022-51.

Status: 01/01/25 Comment Period Expires.  
Referrals: 09/19/24 Access to Justice Policy Committee; Criminal Jurisprudence & Practice Committee; Appellate Practice Section; Criminal Law Section.  
Comments: Access to Justice Policy Committee; Criminal Jurisprudence & Practice Committee; Appellate Practice Section.  
Liaison: Danielle Walton

#### **7. ADM File No. 2023-04: Proposed Amendments of MCR 7.212, 7.305, and 7.312**

The proposed amendments of MCR 7.212, 7.305, and 7.312 would address the filing and timing of amicus curiae briefs. For both appellate courts, the proposal would: allow amicus curiae briefs in response to an application for leave to appeal; eliminate the motion filing fee; and expand the groups that are able to file a brief without a motion or invitation. For the Supreme Court, the proposal would also allow parties to file a response to an adverse amicus curiae brief, subject to certain timing and content requirements.

Status: 01/01/25 Comment Period Expires.  
Referrals: 09/19/24 Access to Justice Policy Committee; Civil Procedure & Courts Committee; Criminal Jurisprudence & Practice Committee; All Sections.  
Comments: Access to Justice Policy Committee; Civil Procedure & Courts Committee; Criminal Jurisprudence & Practice Committee; Appellate Practice Section; Children's Law Section; Family Law Section.  
Liaison: Aaron V. Burrell

### **8. ADM File No. 2023-25: Proposed Amendment of MRPC 1.6 and Comment**

The proposed amendment of MRPC 1.6 would provide an exception to the confidentiality rule by permitting a lawyer to reveal, to certain individuals, confidences or secrets to the extent reasonably necessary to protect a client from self-harm that may result in the client's death.

Status: 01/01/25 Comment Period Expires.

Referrals: Professional Ethics Committee.

Comments: Comments provided to the Court are included in the materials.

Liaison: Silvia A. Mansoor

**Agenda**  
**Public Policy Committee**  
**September 18, 2024 – 12:00 p.m. to 1:30 p.m.**  
**Via Zoom Meetings**

Committee Members: Lori A. Buiteweg, Aaron V. Burrell, Suzanne C. Larsen, Joshua A. Lerner, John P. McGill, Thomas P. Murray, Jr., John W. Reiser, III, Danielle Walton  
SBM Staff: Peter Cunningham, Nathan Triplett, Carrie Sharlow  
GCSI: Marcia Hune

**A. Reports**

1. Approval of July 24, 2024 minutes – The minutes were unanimously adopted.
2. Public Policy Report

**B. Court Rule Amendments**

**1. ADM File No. 2023-26: Proposed Amendments of MCJC 4 and 6**

The proposed amendments of Canon 4E and Canon 6 of the Michigan Code of Judicial Conduct would expand the requirements of annual financial disclosure statements by judicial officers.

The following entities offered comments for recommendation: Civil Procedure & Courts Committee.

**The committee voted unanimously (7) to take no position on the proposed amendments, but to authorize Bar committees to submit their comments.<sup>1</sup>**

**2. Michigan State Bar Foundation Proposed Amendment of MCR 2.606**

The following entities offered comments for recommendation: Access to Justice Policy Committee; Civil Procedure & Courts Committee; Justice Initiatives Committee.

**The Committee voted unanimously (7) to support the proposed additional of MCR 2.606.<sup>2</sup>**

**C. Legislation**

**1. Courtroom Animal Advocate Program (CAAP) Legislative Proposal From Animal Law Section**

The following entities offered comments for recommendation: Access to Justice Policy Committee; Criminal Jurisprudence & Practice Committee.

**The Committee voted unanimously (8) that the legislation is *Keller* permissible in affecting the functioning of the court.**

**The Committee voted unanimously (8) to take no position on the legislation but support the involvement of the State Bar of Michigan should the legislation move forward.**

**D. Consent Agenda**

**The committee approved to allow the Criminal Jurisprudence & Practice Committee and Criminal Law Section to submit their positions on each of the following items:**

**1. M Crim JI 17.26**

The Committee proposes a new jury instructions, M Crim JI 17.26 (Unlawfully Posting a Message), for offenses charged under MCL 750.411s. The instruction is entirely new.

**2. M Crim JI 33.3 and 33.3a**

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<sup>1</sup> Danielle Walton arrived after this vote.

<sup>2</sup> Danielle Walton arrived after this vote.

The Committee proposes two new instructions, M Crim JI 33.3 (Assaulting or Harassing a Service Animal) and 33.3a (Interfering with a Service Animal Performing Its Duties), for the offenses found at MCL 750.50a. The instructions are entirely new.

### **3. M Crim JI 35.1a**

The Committee proposes amendments to M Crim JI 35.1a, formerly identified as (Malicious Use of Telecommunications Service), for the offense found at MCL 750.540e. The amendments (1) refine the title and first paragraph of the instruction to include the possible intents required under the statute, (2) add language addressing the “malicious” wording in the statute that had not been included when the instruction was originally adopted, and (3) reformat the second element to make it more user friendly than the single-paragraph original format. Deletions are in ~~strike-through~~, and new language is underlined. A “clean copy” without the struck language but including the added language is also provided.

### **4. M Crim JI 42.1**

The Committee proposes a new instruction, M Crim JI 42.1 (Misconduct in Office) for the common law crime of misfeasance or malfeasance in office, punishable under MCL 750.505. The instruction is entirely new.

# Order

Michigan Supreme Court  
Lansing, Michigan

September 11, 2024

Elizabeth T. Clement,  
Chief Justice

ADM File No. 2020-08

Brian K. Zahra  
David F. Viviano  
Richard H. Bernstein  
Megan K. Cavanagh  
Elizabeth M. Welch  
Kyra H. Bolden,  
Justices

Proposed Amendments  
of Rules 2.107 and 3.203  
of the Michigan Court Rules

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By order dated July 26, 2021, the Court adopted and simultaneously published for comment amendments of many rules, including Rule 2.107 of the Michigan Court Rules. On order of the Court, notice and an opportunity for comment having been provided, the feedback regarding the July 26, 2021 amendment of Rule 2.107(G) of the Michigan Court Rules has been considered, and the Court is now considering an alternative proposed amendment of Rule 2.107 and a proposed amendment of Rule 3.203 of the Michigan Court Rules. Before determining whether to retain the original amendment of Rule 2.107 or whether this current proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the [Public Administrative Hearings](#) page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and  
deleted text is shown by strikeover.]

Rule 2.107 Service and Filing of Pleadings and Other Documents

(A)-(B) [Unchanged.]

(C) Manner of Service. Except as otherwise provided in subrule (C)(4), all service by parties, except for case initiation, must be performed by using electronic means. If a case is not subject to electronic service and~~Except under MCR 1.109(G)(6)(a),~~ service of a copy of a document on an attorney is~~must be~~ made by delivery or by mailing to the attorney, it must be delivered or mailed to~~at~~ his or her last known business address or, if the attorney does not have a business address, then to his or her last known residence address. ~~Except under MCR 1.109(G)(6)(a),~~ Sservice on a party must be made by delivery or by mailing to the party at the address stated in the party's pleadings. Nothing in this subrule requires the court or friend of the court to use electronic service.

(1)-(3) [Unchanged.]

(4) Alternative—Electronic Service. Parties must use electronic service in accordance with this subrule unless the party opts out as provided in this subrule, another court rule requires a different method of service for a particular type of action or prohibits the use of electronic service, or the case is subject to electronic service under MCR 1.109(G)(6)(a).

(a) ~~Except as provided by MCR 1.109(G)(6)(a)(ii), the parties may agree to alternative electronic service among themselves by filing a stipulation in that case. Some or all of the parties may also agree to alternative electronic service of notices and court documents in a particular case by a court or a friend of the court by filing an agreement with the court or friend of the court respectively. Methods.~~ Alternative—Electronic service may be by any of the following methods:

(i)-(iii) [Unchanged.]

(b) Notification. A party initiating a case must file and serve on all other parties a notification of electronic service on a form approved by the State Court Administrative Office. All other parties must file and serve the notification form when filing their responsive pleading, or if no responsive pleading is filed, at the party's or the party's attorney's first appearance. The notification must state:

(i) Whether the party opts out from using electronic service, and if so, the reason(s) for opting out.

(ii) If the party is not opting out from electronic service, the notification must also state:

(A) The type(s) of electronic service the party can send and receive.

(B) The email address(es) or phone number(s) that will be used for electronic service, including the names and e-mail addresses of other individuals in the office of an attorney of record designated to receive e-mail service on behalf of a party. Attorneys must include the same e-mail address currently on file with the State Bar of Michigan. If an attorney is not a member of the State Bar of Michigan, the email address must be the e-mail

address currently on file with the appropriate registering agency in the state of the attorney's admission.

A party must file and serve a new notification form if the party's opt out status changes.

(c**b**) ~~Obligation to Provide and Update Information.~~

(i) ~~The agreement for alternative electronic service shall set forth the e-mail addresses or phone numbers for service. Attorneys who agree to e-mail service shall include the same e-mail address currently on file with the State Bar of Michigan. If an attorney is not a member of the State Bar of Michigan, the email address shall be the e-mail address currently on file with the appropriate registering agency in the state of the attorney's admission. Parties or attorneys who have not opted out of agreed to alternative electronic service under this subrule must ~~shall~~ immediately file with ~~notify, as required,~~ the court a new notification form and serve it on all parties and ~~or~~ the friend of the court if the e-mail address or phone number for service changes.~~

(ii) ~~The agreement for service by text message or text message alert shall set forth the phone number for service. Parties or attorneys who have agreed to service by text message or text message alert under this subrule must ~~shall~~ immediately file with ~~notify, as required,~~ the court a new notification form and serve it on all parties and ~~or~~ the friend of the court if the phone number for service changes.~~

(d) A party may opt out from using electronic service if any of the following barriers to effective electronic service exist:

(i) the party lacks reliable access to the Internet or an electronic device that is capable of sending or receiving electronic service;

(ii) the party lacks the technical ability to use and understand the methods for engaging in electronic service described in subrule (C)(4)(a);



- (iii) access from a home computer system or the ability to gain access at a public computer terminal present a safety issue for the party;
  - (iv) the party has a disability as defined under the Americans with Disabilities Act that prevents or limits the person's ability to use the methods of electronic service identified in subrule (C)(4)(a);
  - (v) the party has limited English proficiency that prevents or limits the person's ability to engage in or receive electronic service;  
or
  - (vi) the party is confined by governmental authority, including but not limited to an individual who is incarcerated in a jail or prison facility, detained in a juvenile facility, or committed to a medical or mental health facility.
- (ee) ~~The following party or attorney shall set forth the agreement all~~ limitations and conditions concerning e-mail or text message service ~~apply, including but not limited to:~~
- (i) Each e-mail or text message that transmits a document or provides an alert to log in to view a document shall identify in the e-mail subject line or at the beginning of the text message the name of the court, case name, case number, and the title of each document being sent.
  - (ii) Documents served by e-mail or text message must be in PDF format or other format that prevents the alteration of the document contents. Documents served by alert must be in PDF format or other format for which a free downloadable reader is available.
  - (iii) An electronic service transmission sent at or before 11:59 p.m. is deemed to be served on that day. If the transmission is sent on a Saturday, Sunday, legal holiday, or other day on which the court is closed pursuant to court order, it is deemed to be served on the next business day.
  - (iv) Electronic service is complete upon transmission, unless the party, court, or friend of the court making service learns that the attempted service did not reach the intended recipient. If

an electronic service transmission is undeliverable, the entity responsible for serving the document must serve the document by regular mail under MCR 2.107(C)(3) or by delivery under MCR 2.107(C)(1) or (2), and include a copy of the return notice indicating that the electronic transmission was undeliverable. The court or friend of the court must also retain a notice that the electronic transmission was undeliverable.

(v) If an attachment exceeds the maximum size permitted by the email or text messaging provider, the entity responsible for serving the document must serve the document by regular mail under MCR 2.107(C)(3) or by delivery under MCR 2.107(C)(1) or (2), and include a statement indicating that the electronic transmission was not possible due to its size. The court or friend of the court must also retain a notice that the electronic transmission was not possible.

(vi) Exhibits must be attached or sent and designated as separate documents.

~~(i) the maximum size of the document that may be attached to an e-mail or text message,~~

~~(ii) designation of exhibits as separate documents,~~

~~(iii) the obligation (if any) to furnish paper copies of e-mailed or text message documents, and~~

~~(iv) the names and e-mail addresses of other individuals in the office of an attorney of record designated to receive e-mail service on behalf of a party.~~

~~(d) Documents served by e-mail or text message must be in PDF format or other format that prevents the alteration of the document contents. Documents served by alert must be in PDF format or other format for which a free downloadable reader is available.~~

~~(fe) A document served by alternative electronic service that the court or friend of the court or his or her authorized designee is required to sign may be signed in accordance with MCR 1.109(E).~~

~~(f) Each e-mail or text message that transmits a document or provides an alert to log in to view a document shall identify in the e-mail subject~~

line or at the beginning of the text message the name of the court, case name, case number, and the title of each document being sent.

- ~~(g)~~ An alternative electronic service transmission sent at or before 11:59 p.m. shall be deemed to be served on that day. If the transmission is sent on a Saturday, Sunday, legal holiday, or other day on which the court is closed pursuant to court order, it is deemed to be served on the next business day.
- ~~(h)~~ A party or attorney may withdraw from an agreement for alternative electronic service by notifying the party or parties, court, and the friend of the court, as appropriate, in writing and shall take effect immediately.
- ~~(i)~~ Alternative electronic service is complete upon transmission, unless the party, court, or friend of the court making service learns that the attempted service did not reach the intended recipient. If an alternative electronic service transmission is undeliverable, the entity responsible for serving the document must serve the document by regular mail under MCR 2.107(C)(3) or by delivery under MCR 2.107(C)(1) or (2), and include a copy of the return notice indicating that the electronic transmission was undeliverable. The court or friend of the court must also retain a notice that the electronic transmission was undeliverable.
- ~~(g)~~ [Relettered as (g) but otherwise unchanged.]
- ~~(hk)~~ This rule does not require the court or the friend of the court to create functionality it does not have nor accommodate more than one standard for alternative electronic service.
- ~~(l)~~ The party or attorney requesting electronic service under this subrule is required to submit a request to initiate, update, modify, or withdraw from electronic service to the court independently from the friend of the court office.

(D)-(F) [Unchanged.]

- ~~(G)~~ Notwithstanding any other provision of this rule, until further order of the Court, all service of process except for case initiation must be performed using electronic means (eFiling where available, email, or fax, where available) to the greatest extent possible. Email transmission does not require agreement by the other party(s) but

~~should otherwise comply as much as possible with the provisions of subsection (C)(4).~~

### Rule 3.203 Service of Notice and Court Documents in Domestic Relations Cases

(A) Manner of Service. Unless otherwise required by court rule or statute, the summons and complaint must be served pursuant to MCR 2.105. In cases in which the court retains jurisdiction

(1)-(2) [Unchanged.]

(3) ~~Alternative~~-Electronic Service. A party or an attorney may file an agreement with the friend of the court to authorize the friend of the court to serve notices and court papers on the party or attorney in accordance with MCR 2.107(C)(4). However, the friend of the court must not use electronic service if federal law, state law, or court rule:

(a) prohibits the document from being served electronically in a form that complies with other court rules governing the document, or

(b) requires restrictions that make it less likely the recipient can receive or open the document.

(B)-(J) [Unchanged.]

*Staff Comment (ADM File No. 2020-08):* MCR 2.107(G) was adopted and simultaneously published for comment by the Court on July 26, 2021. The proposed amendment of MCR 2.107 in this order reflects an alternative proposal that would expand the use of electronic service by requiring its use unless a party opts out, as suggested by some commenters on the original proposal. The proposed amendment of MCR 3.203 clarifies the use of electronic service in domestic relations cases.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by January 1, 2025 by clicking on the “Comment on this Proposal” link under this proposal on the [Court’s Proposed & Adopted Orders on Administrative Matters](#) page. You may also submit a comment in writing at

P.O. Box 30052, Lansing, MI 48909 or via email at [ADMcomment@courts.mi.gov](mailto:ADMcomment@courts.mi.gov). When submitting a comment, please refer to ADM File No. 2020-08. Your comments and the comments of others will be posted under the chapter affected by this proposal.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 11, 2024

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Clerk

**Public Policy Position**  
**ADM File No. 2020-08: Proposed Amendments of MCR 2.107 and 3.203**

**Support with Amendments**

**Explanation**

The Committee voted to support ADM File No. 2020-08 with an amendment to provide that, while parties represented by counsel should be required to *opt out* of electronic service, parties proceeding pro se should be required to *opt in* to electronic service. In addition, the Committee expressed concern that there may be some unique court proceedings where electronic service—and therefore the proposed Rule change—is ill-suited, including those in which litigants may have personal protection orders against the opposing party and debt collection cases.

**Position Vote:**

Voted For position: 10

Voted against position: 8

Abstained from vote: 0

Did not vote (absence): 6

**Contact Persons:**

Daniel S. Korobkin [dkorobkin@aclumich.org](mailto:dkorobkin@aclumich.org)

Katherine L. Marcuz [kmarcuz@sado.org](mailto:kmarcuz@sado.org)

**Public Policy Position**  
**ADM File No. 2020-08: Proposed Amendments of MCR 2.107 and 3.203**

**Support with Amendments**

**Explanation**

The Committee voted to support ADM File No. 2020-08 with an amendment to provide that, while parties represented by counsel should be required to *opt out* of electronic service, parties proceeding pro se should be required to *opt in* to electronic service.

In addition, the Committee echoed the concerns expressed by the Access to Justice Policy Committee that there may be some unique court proceedings where electronic service—and therefore the proposed Rule change—is ill-suited. Such proceedings include those in which litigants may have personal protection orders against the opposing party, debt collection cases (including eviction proceedings), and post-judgment motions in family court matters.

**Position Vote:**

Voted For position: 21

Voted against position: 0

Abstained from vote: 0

Did not vote (absence): 3

**Contact Person:**

Marla Linderman Richelew     [mrichelew@gmail.com](mailto:mrichelew@gmail.com)

**Public Policy Position  
ADM File No. 2020-08**

**Support with Recommended Amendments**

**Explanation**

The Family Law Section supports adoption of ADM File No. 2020-08, concerning MCR 2.107 and MCR 3.203, with the following amendments:

Further amendment to MCR 2.107(C):

(C) Manner of Service. Except as otherwise provided in subrule (C)(4), all service by parties, except for case initiation, must be performed by using electronic means. Nothing in this subrule requires the court or friend of the court to use electronic service. If a case is not subject to electronic service, and ~~Except under MCR 1.109(G)(6)(a);~~

- (i) Sservice of a copy of a document on an attorney is made by delivery or by mailing to the attorney, it must be delivered or mailed to ~~at~~ his or her last known business address or, if the attorney does not have a business address, then to his or her last known residence address. ~~Except under MCR 1.109(G)(6)(a);~~
- (ii) Sservice of a copy of a document on a party must be made by delivery or by mailing to the party at the address stated in the party's pleadings.

Further amendment to MCR 2.107(C)(4)(e)(vii):

- (vii) All electronic service transmissions must be able to be scanned for viruses by the recipient.

Further amendments to MCR 3.203 Service of Notice and Court Documents in Domestic Relations Cases:

(A) Manner of Service. Unless otherwise required by court rule or statute, the summons and complaint must be served pursuant to MCR 2.105. In cases in which the court retains jurisdiction

(1) – (2) [Unchanged]

(3) ~~Alternative~~ Electronic Service.

- a. A party or an attorney may file an agreement with the friend of the court to authorize the friend of the Court to serve notices and court papers on the party or attorney in accordance with MCR 2.107(C)(4). However, the friend of the court must not use electronic service if federal law, state law, or court rule:
  - i. prohibits the document from being served electronically in a form that



- complies with other court rules governing the document, or
- ii. requires restrictions that make it less likely the recipient can receive or open the document.
  - b. A party filing a post-judgment motion must file with the motion a new notification form required under MCR 2.107(C)(4)(b).
  - c. A party at any time may opt out from using electronic service by filing a new notification form required under MCR 2.107(C)(4)(b).
  - d. Notwithstanding the provisions of MCR 1.109(G)(6)(a)(v), when a party opts out of electronic service, service of all case documents may not be made electronically.

**Position Vote:**

Voted for position: 13

Voted against position: 0

Abstained from vote: 1

Did not vote: 6

**Contact Person:** Donald Wheaton

**Email:** [don@lawyerhousecalls.com](mailto:don@lawyerhousecalls.com)

**From:** [Maria Hoebeke](#)  
**To:** [ADMcomment](#)  
**Subject:** RE: DM File No. 2020-08.  
**Date:** Friday, September 27, 2024 6:11:36 PM

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Please clarify the rule so as to avoid any confusion based on the arguments below. There are more disagreements, but these are basically the two interpretations. Both of these attorneys are extremely intelligent so if they can read it differently, it's a problem.

Thank you,

**From:**  
**Sent:** Friday, September 27, 2024 4:20 PM  
**To:**  
**Cc:** [fls@ls.mifamilylawattorney.org](mailto:fls@ls.mifamilylawattorney.org)  
**Subject:** Re: [FLS] Re: Michigan Court Rules for Service

I don't read it that way. (G) creates a mandatory exception ("must") to the other portions of the rule. While that exception may have been initially intended to deal with the pandemic, it has not been amended or removed from the rule. I think it means what it says ("Notwithstanding any other provision of this rule ....").

VS...

**On Fri, Sep 27, 2024 at 3:31 PM \_\_\_\_\_ via FLS**  
**<[fls@ls.mifamilylawattorney.org](mailto:fls@ls.mifamilylawattorney.org)> wrote:**

The rules are tedious but quite clear, service via mail *and* email is required. I do not see any ambiguity here or any way you would be permitted to serve via email only unless mutually agreed.

(C) Manner of Service. Except under MCR 1.109(G)(6)(a), service of a copy of a document on an attorney **must** be made by delivery or by mailing to the attorney at his or her last known business address or, if the attorney does not have a business address, then to his or her last known residence address. Except under MCR 1.109(G)(6)(a), service on a party must be made by delivery or by mailing to the party at the address stated in the party's pleadings.

(3) Mailing. Mailing a copy under this rule means enclosing it in a sealed

envelope with first class postage fully prepaid, addressed to the person to be served, and depositing the envelope and its contents in the United States mail. Service by mail is complete at the time of mailing.

(G) Notwithstanding any other provision of this rule, until further order of the Court, all service of process except for case initiation must be performed using electronic means (eFiling where available, email, or fax, where available) to the greatest extent possible. Email transmission does not require agreement by the other party(s) but should otherwise comply as much as possible with the provisions of subsection (C)(4).

*Maria L. Hoebeke Esq.*

**Certified in Civil Mediation**

[Taylor Butterfield, P.C.](#)

407 Clay Street

Lapeer, MI 48446

[810-664-5921](tel:810-664-5921) - phone

[810-664-0904](tel:810-664-0904) – fax

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**From:** Maria Hoebeke  
**Sent:** Thursday, September 26, 2024 6:58 PM  
**To:** ADMcomment@courts.mi.gov  
**Subject:** DM File No. 2020-08.

2.107(C) *“Nothing in this subrule requires the court or friend of the court to use electronic service.”*

2.107(C)(4)(h) *“This rule does not require the court or the friend of the court to create functionality it does not have nor accommodate more than one standard for alternative electronic service.”*

Other than the exceptions, why shouldn't the courts have to comply also? I am literally right next door to the local courthouse. I could throw a rock and hit the side of the building from my office. I have a mailbox in the courthouse, as do many other local attorneys, the purpose of which is to expedite process and limit snail mail issues which are getting worse. There are also baskets at the court where attorneys can drop off our filings rather than snail mailing them as well.

Despite all this, the FOC and sometimes the Court, depending on the day, refuse to join in. Instead, they insist on putting things in the mail knowing full well that they can literally just drop it in our box or email, they won't. And despite being right next door, the mail takes at least 5 days to arrive many times, if we're lucky, leaving us with ONE DAY to answer. This just happened this week. They're not accommodating or pleasant and I had to file an objection spur of the moment which just increases costs to litigants, causes frustration for the attorneys and needlessly extends the case making it even more adversarial.

This is a small town and everybody knows everybody. We have ONE FOC and ONE PROBATE COURT who splits domestic matters with ONE of the two Circuit Courts. It's already difficult enough to be a fierce advocate for your client without someone taking it personal. Maybe if we were as big as Wayne County, we wouldn't care either. But we're not.

It's bad enough that we can't have some procedural consistency from county to county or even state wide, but why can't we try to eliminate problems rather than create more things to abuse?

And it's not that they don't have the technology, because they can certainly email when they want to. We are way past due in requiring that the Courts comply just like everyone else. Every person and office has a computer and they all have cell phones. It also seemed to be working just fine in during the two-ish Covid years. Everyone seemed to adapt quite well....when they have to. There's no reason not to keep moving forward.

Allowing the Courts the option to use snail mail if and when they choose is asking for trouble and unnecessarily inviting problems. There may be a few courts out there that have a legitimate hardship, though I can't imagine where. However, those courts should be the exception not the rule.

PLEASE consider making this mandatory for EVERYONE aside for legitimate exceptions. Yes, I'm frustrated ....and not the only one.

*Maria L. Hoebeke Esq.*

**Certified in Civil Mediation**

[Taylor Butterfield, P.C.](#)

407 Clay Street

Lapeer, MI 48446

[810-664-5921](tel:810-664-5921) - phone

[810-664-0904](tel:810-664-0904) - fax

Name: Lori J Frank

Date: 10/14/2024

ADM File Number: 2020-08

Comment:

1. Will the following court rules be amended to require the pleading party to include an email address (MCR 1.109(D)(1)(b)(iv) and MCR 2.111(C))?
2. Will SCAO include a place for the email address on the relevant forms?

# Order

Michigan Supreme Court  
Lansing, Michigan

September 11, 2024

Elizabeth T. Clement,  
Chief Justice

ADM File No. 2021-27

Brian K. Zahra  
David F. Viviano  
Richard H. Bernstein  
Megan K. Cavanagh  
Elizabeth M. Welch  
Kyra H. Bolden,  
Justices

Proposed Amendments of  
Rules 3.207 and 3.210 of  
the Michigan Court Rules

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On order of the Court, this is to advise that the Court is considering amendments of Rules 3.207 and 3.210 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the [Public Administrative Hearings](#) page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and  
deleted text is shown by strikeover.]

Rule 3.207 Ex Parte, Temporary, and Protective Orders

(A) [Unchanged.]

(B) Ex Parte Orders.

(1) Pending the entry of a temporary order, the court may enter an ex parte order if the court is satisfied by specific facts set forth in an affidavit or verified pleading that irreparable injury, loss, or damage will result from the delay required to effect notice, or that notice itself will precipitate adverse action before an order can be issued.

(a) An affidavit attached to a motion or a pleading that requests an ex parte custody or parenting time order or that requests a change of custody or parenting time must include the following information:

(i) facts establishing whether the child has an established custodial environment with either or both parents, and

(ii) either facts establishing that entry of the requested order will

not change the child's established custodial environment, or facts establishing that clear and convincing evidence exists that the change in the child's established custodial environment is in the child's best interest.

- (b) The court must not issue an order that could alter a child's established custodial environment without also scheduling an evidentiary hearing under MCL 722.27 to be held within 21 days to determine whether there is clear and convincing evidence that the order is in the child's best interest. The hearing date must be included in the order.
- (2) The moving party must arrange for the service of true copies of the ex parte order on the friend of the court and the other party within 3 days of the order being issued.
- (3)-(4) [Unchanged.]
- (5) Procedure Following Service of Ex Parte Order.
  - (a) If no timely objection or motion to rescind or modify the ex parte custody, parenting time, or support order is filed, the order is a temporary order. If a hearing date was set in the order, the court may cancel the hearing.
  - (b) If a party files a motion to rescind or modify the ex parte order without filing an objection, the court must hold an evidentiary hearing and resolve the dispute within 21 days of the motion being filed or on the hearing date specified in the ex parte order, if any.
  - (c) If a party files a timely objection, the friend of the court must attempt to resolve the dispute within 14 days of the objection being filed or on the hearing date specified in the ex parte order, if any. If the friend of the court cannot resolve the dispute, the friend of the court must provide a motion form to the objecting party and schedule an evidentiary hearing to be held within 21 days of the motion being filed.
  - (d) A change that occurs after the hearing may be made retroactive to the date the ex parte order was entered.
- (65) An ex parte order providing for child support, custody, or parenting time~~visitation~~ pursuant to MCL 722.27a, must include the following notice:

“Notice:

“1. You may file a written objection to this order or a motion to modify or rescind this order. You must file the written objection or motion with the clerk of the court within 14 days after you were served with this order. You must serve a true copy of the objection or motion on the friend of the court and the party who obtained the order.

“2. Unless a hearing date is set in this order, if you file a written objection, the friend of the court must try to resolve the dispute. If the friend of the court cannot resolve the dispute and if you wish to bring the matter before the court without the assistance of counsel, the friend of the court must provide you with form pleadings and written instructions and must schedule a hearing with the court.

“3. The ex parte order will automatically become a temporary order if you do not file a written objection or motion to modify or rescind the ex parte order and, unless a hearing date is set in this order, a request for a hearing. If a hearing date is set in this order, and you do not file a written objection or motion, the hearing may be canceled. Even if an objection or motion is filed, the ex parte order will remain in effect and must be obeyed unless changed by a later court order.”

(6) In all other cases, the ex parte order must state that it will automatically become a temporary order if the other party does not file a written objection or motion to modify or rescind the ex parte order and a request for a hearing. The written objection or motion and the request for a hearing must be filed with the clerk of the court, and a true copy provided to the friend of the court and the other party, within 14 days after the order is served.

(a) ~~If there is a timely objection or motion and a request for a hearing, the hearing must be held within 21 days after the objection or motion and request are filed.~~

(b) ~~A change that occurs after the hearing may be made retroactive to the date the ex parte order was entered.~~

(7) [Unchanged.]

(C) Temporary Orders.

(1) [Unchanged.]



- (2) A temporary order may not be issued without a hearing, unless the parties agree otherwise or fail to file a written objection or motion as provided in subrules (B)(5) and (6).

(3)-(6) [Unchanged.]

#### Rule 3.210 Hearings and Trials

(A)-(B) [Unchanged.]

(C) Custody of a Minor or Changing a Child's Established Custodial Environment.

- (1) When the custody, parenting time, change of domicile, or another motion regarding a minor is contested, the court may not enter an order resolving the contested matter that changes a child's established custodial environment without first holding an evidentiary hearing to determine whether clear and convincing evidence exists to support that the order is in the child's best interest. When the custody of a minor or a motion that would change a child's established custodial environment is contested, a hearing on the matter must be held within 56 days

(a) [Unchanged.]

- (b) after the filing of notice that a ~~eustody~~ hearing is requested, unless both parties agree to mediation under MCR 3.216 or MCR 3.224(G)~~MCL 552.513~~ and mediation is unsuccessful, in which event the hearing must be held within 56 days after the final mediation session.

(2)-(8) [Unchanged.]

(D)-(E) [Unchanged.]

*Staff Comment (ADM File No. 2021-27):* The proposed amendment of MCR 3.207 would: (1) clarify the pleading requirements for requesting certain ex parte orders, (2) require that an evidentiary hearing be scheduled anytime the court enters an order that may change a child's established custodial environment, and (3) clarify the procedure following service of an ex parte order. The proposed amendment of MCR 3.210 would require courts to hold an evidentiary hearing prior to entering an order changing a child's established custodial environment in contested cases.

The staff comment is not an authoritative construction by the Court. In addition,

adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by January 1, 2025 by clicking on the “Comment on this Proposal” link under this proposal on the [Court’s Proposed & Adopted Orders on Administrative Matters](#) page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at [ADMcomment@courts.mi.gov](mailto:ADMcomment@courts.mi.gov). When submitting a comment, please refer to ADM File No. 2021-27. Your comments and the comments of others will be posted under the chapter affected by this proposal.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 11, 2024

A handwritten signature in black ink, appearing to read "Larry S. Royster".

Clerk

**Public Policy Position**  
**ADM File No. 2021-27: Proposed Amendments of MCR 3.207 and 3.210**

**Support with Amendment**

**Explanation**

The Committee voted to support ADM File No. 2021-27 with a further amendment to Rule 3.207(B)(5)(a) to permit a court to cancel the required evidentiary hearing only when the non-moving party has affirmatively agreed that a hearing is not necessary. This amendment is necessary because pro se litigants will likely be unaware that their failure to object or otherwise respond to an ex parte custody or parenting time order will result in the cancellation of a hearing and potential impairment of their parental rights.

**Position Vote:**

Voted For position: 17

Voted against position: 0

Abstained from vote: 1

Did not vote (absence): 6

**Contact Persons:**

Daniel S. Korobkin [dkorobkin@aclumich.org](mailto:dkorobkin@aclumich.org)

Katherine L. Marcuz [kmarcuz@sado.org](mailto:kmarcuz@sado.org)

**Public Policy Position**  
**ADM File No. 2021-27: Proposed Amendments of MCR 3.207 and 3.210**

**Support**

**Explanation**

The Committee voted to support ADM File No. 2021-27.

**Position Vote:**

Voted For position: 23

Voted against position: 0

Abstained from vote: 0

Did not vote (absence): 5

**Contact Person:**

Marla Linderman Richelew [mrichelew@gmail.com](mailto:mrichelew@gmail.com)

**Public Policy Position  
ADM File No. 2021-27**

**Support with Recommended Amendments**

**Explanation**

Council endorses the changes to this Court Rule with two changes that will ensure the Court cannot cancel and must hold the scheduled evidentiary hearing required under Michigan case law before changing a child's established custodial environment.

Accordingly, the Family Law Section Council recommends striking the last sentence of MCR 3.207(B)(5)(a), so that it will read instead as follows:

(5) Procedure Following Service of Ex Parte Order.

(a) If no timely objection or motion to rescind or modify the ex parte custody, parenting time, or support order is filed, the order is a temporary order.

Concomitantly, the provision in enumerated Paragraph 3 of the "Notice" required under MCR 3.207(B)(6) would also change, to read as follows:

"3. The ex parte order will automatically become a temporary order if you do not file a written objection or motion to modify or rescind the ex parte order and, unless a hearing date is set in this order, a request for a hearing. Even if an objection or motion is filed, the ex parte order will remain in effect and must be obeyed unless changed by a later court order."

**Position Vote:**

Voted for position: 16

Voted against position: 1

Abstained from vote: 1

Did not vote: 3

**Contact Person:** Donald Wheaton

**Email:** [don@lawyerhousecalls.com](mailto:don@lawyerhousecalls.com)

# Order

Michigan Supreme Court  
Lansing, Michigan

September 4, 2024

Elizabeth T. Clement,  
Chief Justice

ADM File No. 2022-59

Brian K. Zahra  
David F. Viviano  
Richard H. Bernstein  
Megan K. Cavanagh  
Elizabeth M. Welch  
Kyra H. Bolden,  
Justices

Proposed Amendment of  
Rule 6.302 of the Michigan  
Court Rules

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On order of the Court, this is to advise that the Court is considering an amendment of Rule 6.302 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the [Public Administrative Hearings](#) page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and  
deleted text is shown by strikeover.]

Rule 6.302 Pleas of Guilty and Nolo Contendere

(A)-(F) [Unchanged.]

(G) After the court accepts a defendant's plea, it must advise the defendant, either orally or in writing, that the plea may be withdrawn in accordance with MCR 6.310. Any advice must specifically state that if the defendant engages in misconduct, as that term is defined in MCR 6.310, before sentencing.

(1) the defendant will not be allowed to withdraw the plea unless the court allows for good cause, and

(2) the court will not be required to abide by any sentencing agreement or evaluation.

*Staff Comment (ADM File No. 2022-59):* The proposed amendment of MCR 6.302 would require courts, after accepting a plea, to advise defendants of their ability to withdraw their plea and to specifically advise defendants of the consequences of misconduct in between plea acceptance and sentencing.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by January 1, 2025 by clicking on the “Comment on this Proposal” link under this proposal on the [Court’s Proposed & Adopted Orders on Administrative Matters](#) page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at [ADMcomment@courts.mi.gov](mailto:ADMcomment@courts.mi.gov). When submitting a comment, please refer to ADM File No. 2022-59. Your comments and the comments of others will be posted under the chapter affected by this proposal.

ZAHRA, J., would have declined to publish the proposal for comment.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 4, 2024

A handwritten signature in black ink, appearing to read "Larry S. Royster".

Clerk

**Public Policy Position**  
**ADM File No. 2022-59: Proposed Amendment of MCR 6.302**

**Support**

**Explanation**

The Committee voted unanimously to support ADM File No. 2022-59. The Committee believes that the proposed amendment of MCR 6.302 will improve the plea process by increasing court transparency via more complete advisements. The proposed amendment will reinforce judicial discretion, while also ensuring that procedural issues are minimized, and substantive legal matters are properly addressed.

**Position Vote:**

Voted For position: 18

Voted against position: 0

Abstained from vote: 0

Did not vote (absence): 6

**Contact Persons:**

Daniel S. Korobkin [dkorobkin@aclumich.org](mailto:dkorobkin@aclumich.org)

Katherine L. Marcuz [kmarcuz@sado.org](mailto:kmarcuz@sado.org)



**Public Policy Position**  
**ADM File No. 2022-59: Proposed Amendment of MCR 6.302**

**Support**

**Explanation:**

The Committee voted unanimously to support ADM File No. 2022-59.

The Committee believes that the proposed amendment of MCR 6.302 will help ensure that defendants are provided with information regarding their ability to withdraw a plea after acceptance and, in particular, with a warning about the consequences of certain behavior or ‘misconduct’ as it relates to their right to withdraw from a plea. A standard form/procedure across courts in this area will help ensure consistency in the communication for all defendants.

**Position Vote:**

Voted For position: 20

Voted against position: 0

Abstained from vote: 0

Did not vote (absent): 6

**Contact Persons:**

Nimish R. Ganatra [ganatran@washtenaw.org](mailto:ganatran@washtenaw.org)

John A. Shea [jashea@earthlink.net](mailto:jashea@earthlink.net)

# Order

Michigan Supreme Court  
Lansing, Michigan

September 18, 2024

Elizabeth T. Clement,  
Chief Justice

ADM File No. 2023-07

Brian K. Zahra  
David F. Viviano  
Richard H. Bernstein  
Megan K. Cavanagh  
Elizabeth M. Welch  
Kyra H. Bolden,  
Justices

Proposed Amendment of  
Rule 6.433 of the Michigan  
Court Rules

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On order of the Court, this is to advise that the Court is considering an amendment of Rule 6.433 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the [Public Administrative Hearings](#) page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and  
deleted text is shown by strikeover.]

Rule 6.433 Documents for Postconviction Proceedings; Indigent Defendant

(A)-(B) [Unchanged.]

(C) Other Postconviction Proceedings. An indigent defendant who is not eligible to file an appeal of right or an application for leave to appeal may obtain records and documents as provided in this subrule.

(1)-(2) [Unchanged.]

(3) The court may order the transcription of additional proceedings if it finds that there is good cause for doing so. A defendant must provide the following information before a court can determine whether good cause exists to order transcription under this subrule:

(a) The date of the proceeding(s) for which the defendant is seeking transcription.

- (b) The specific reason(s) why a transcript is needed.
- (c) How each requested transcript will improve the defendant’s chance of receiving postconviction relief.

After such a transcript has been prepared, the clerk must provide a copy to the defendant.

(4) [Unchanged.]

*Staff Comment (ADM File No. 2023-07):* The proposed amendment of MCR 6.433 would require an indigent defendant to provide certain information before a court can consider whether good cause exists to order transcription of additional proceedings.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by January 1, 2025 by clicking on the “Comment on this Proposal” link under this proposal on the [Court’s Proposed & Adopted Orders on Administrative Matters](#) page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at [ADMcomment@courts.mi.gov](mailto:ADMcomment@courts.mi.gov). When submitting a comment, please refer to ADM File No. 2023-07. Your comments and the comments of others will be posted under the chapter affected by this proposal.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 18, 2024

Clerk

**Public Policy Position**  
**ADM File No. 2023-07: Proposed Amendment of MCR 6.433**

**Oppose**

**Explanation**

The Committee voted unanimously to oppose ADM File No. 2023-07. The Committee believes that the proposed amendment of MCR 6.433 will impede access to justice by allowing an indigent defendant's request for transcripts to be denied (or perhaps even ignored) if the defendant does not provide enough specificity about why the transcript is needed or how it is likely to benefit the defendant. The proposed amendment could allow, for example, for a court to deny a request for transcription based on a minor omission of the date, even if the indigent defendant does not know the approximate or exact date of a proceeding. Additionally, the Committee believes that requiring indigent defendants to indicate how the requested transcript will improve their chance of receiving postconviction relief is circular. The indigent defendant will likely be requesting the transcript to see if there is a meritorious legal argument to be made. They may not have identified the argument that will improve their chance of receiving postconviction relief until they receive the transcript, yet they cannot get access to the transcript until they have identified the argument.

Moreover, the Committee does not believe that the existing rule is flawed and in need of amendment. If the purpose of the proposed amendment is to promote more particularized motions when indigent defendants are seeking transcripts, the rule language could simply provide that the defendant "may" provide such information. Such an approach would provide guidance to indigent defendants filing such motions. Finally, "good cause" is a common standard that the Committee believes vests the trial court with appropriate discretion. Further definition is unnecessary and serves only to limit trial court discretion.

**Position Vote:**

Voted For position: 18

Voted against position: 0

Abstained from vote: 0

Did not vote (absence): 6

**Contact Persons:**

Daniel S. Korobkin [dkorobkin@aclumich.org](mailto:dkorobkin@aclumich.org)

Katherine L. Marcuz [kmarcuz@sado.org](mailto:kmarcuz@sado.org)

**Public Policy Position**  
**ADM File No. 2023-07: Proposed Amendment of MCR 6.433**

**Oppose**

**Explanation:**

The Committee voted to oppose ADM File No. 2023-07. The Committee believes that the proposed amendment of MCR 6.433 is unnecessary and will harm access to justice for indigent defendants seeking transcription that is essential to their legal claims and defenses.

**Position Vote:**

Voted For position: 17

Voted against position: 3

Abstained from vote: 0

Did not vote (absent): 6

**Contact Persons:**

Nimish R. Ganatra

[ganatran@washtenaw.org](mailto:ganatran@washtenaw.org)

John A. Shea

[jashea@earthlink.net](mailto:jashea@earthlink.net)

Name: Jessica L. Jaynes

Date: 09/23/2024

ADM File Number: 2023-07

Comment:

I find this requirement to be a bridge too far. An indigent defendant should not have to explain why each and every transcript from their case could help in their appeal. If an indigent defendant hasn't appealed and now would like to, but no transcripts have been prepared previously since no appeal was taken, that defendant is entitled to one copy of each transcript at public expense; and should just need to submit paperwork that they have not received transcripts previously, and then the court orders the production of the requested transcripts. This rule assumes the transcript(s) have been prepared and are in the court file, which most of the time they haven't been produced, unless an appeal was requested. Usually, an order is sent to the reporter/recorder to then produce and mail to the defendant in prison once a review of the file has been done to ensure the defendant hasn't already received a copy of the transcript(s) they are requesting. I feel this makes it an unlevel playing field for the haves and have-nots; in that, the haves just order and pay for their transcript for appeals and post appeal convictions and do not have to justify how the transcript will help in their case going forward, when the indigent defendant has to jump through extra hoops because they are indigent. This seems way off base. There's nothing wrong with the rule as it currently exists.

# Order

Michigan Supreme Court  
Lansing, Michigan

September 11, 2024

Elizabeth T. Clement,  
Chief Justice

ADM File No. 2022-51

Brian K. Zahra  
David F. Viviano  
Richard H. Bernstein  
Megan K. Cavanagh  
Elizabeth M. Welch  
Kyra H. Bolden,  
Justices

Proposed Amendment of  
Rule 6.509 of the Michigan  
Court Rules

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On order of the Court, this is to advise that the Court is considering an amendment of Rule 6.509 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the [Public Administrative Hearings](#) page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and  
deleted text is shown by strikeover.]

## Rule 6.509 Appeal

(A) Availability of Appeal. Appeals from decisions under this subchapter are by application for leave to appeal to the Court of Appeals pursuant to MCR 7.205(A)(1). The 6-month time limit provided by MCR 7.205(A)(4)(a), runs from the decision under this subchapter. For purposes of this subrule, a “decision under this subchapter” includes a decision on a motion filed under MCR 6.502 and a decision on a timely-filed motion for reconsideration. Nothing in this subchapter shall be construed as extending the time to appeal from the original judgment.

(B)-(D) [Unchanged.]

*Staff Comment (ADM File No. 2022-51):* The proposed amendment of MCR 6.509 would clarify that defendants may file with the Court of Appeals an application for leave to appeal a trial court’s decision on: (1) a motion for relief from judgment; and (2) a timely-filed motion to reconsider an order deciding a motion for relief from judgment. Note that a separate proposal affecting MCR 6.509(A) is proposed under ADM File No. 2022-57.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by January 1, 2025 by clicking on the “Comment on this Proposal” link under this proposal on the [Court’s Proposed & Adopted Orders on Administrative Matters](#) page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at [ADMcomment@courts.mi.gov](mailto:ADMcomment@courts.mi.gov). When filing a comment, please refer to ADM File No. 2022-51. Your comments and the comments of others will be posted under the chapter affected by this proposal.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 11, 2024

A handwritten signature in black ink, appearing to read "Larry S. Royster", written over a horizontal line.

Clerk



**Public Policy Position**  
**ADM File No. 2022-51: Proposed Amendment of MCR 6.509**

**Support**

**Explanation**

The Committee voted unanimously to support ADM File No. 2022-51. The proposed amendment will clarify how the bench and Bar should correctly calculate the time limit for filing an application for leave to appeal a motion for relief from judgment and a motion to reconsider an order deciding a motion for relief from judgment. To the extent ambiguity concerning this calculation exists today, clarifying it explicitly in the rule will be helpful to all concerned.

**Position Vote:**

Voted For position: 18

Voted against position: 0

Abstained from vote: 0

Did not vote (absence): 6

**Contact Persons:**

Daniel S. Korobkin [dkorobkin@aclumich.org](mailto:dkorobkin@aclumich.org)

Katherine L. Marcuz [kmarcuz@sado.org](mailto:kmarcuz@sado.org)

**Public Policy Position**  
**ADM File No. 2022-51: Proposed Amendment of MCR 6.509**

**Support**

**Explanation:**

The Committee voted unanimously to support ADM File No. 2022-51. The proposed amendment of MCR 6.509 is straightforward and will provide clarity regarding the timeframe applicable to the filing of an application for leave to appeal from certain motions.

**Position Vote:**

Voted For position: 21

Voted against position: 0

Abstained from vote: 0

Did not vote (absent): 5

**Contact Persons:**

Nimish R. Ganatra [ganatran@washtenaw.org](mailto:ganatran@washtenaw.org)

John A. Shea [jashea@earthlink.net](mailto:jashea@earthlink.net)

**Public Policy Position**  
**ADM File No. 2022-51: Proposed Amendment of MCR 6.509**

**Support with Recommended Amendments**

**Explanation:**

The Appellate Practice Section supports the proposed amendments to MCR 6.509. The only recommended amendment is to the Staff Comment of the Administrative Order, which currently states: "The proposed amendment of MCR 6.509 would clarify that defendants may file with the Court of Appeals an application for leave to appeal..."

Because the proposed amendment also applies (practically) to prosecutors, the Appellate Practice Section recommends amending the Staff Comment to state: "The proposed amendment of MCR 6.509 would clarify that a party may file with the Court of Appeals an application for leave to appeal..."

**Position Vote:**

Voted for position: 15

Voted against position: 0

Abstained from vote: 0

Did not vote: 6

**Contact Person:** Fawzeih Daher

**Email:** [fdaher@bodmanlaw.com](mailto:fdaher@bodmanlaw.com)

# Order

Michigan Supreme Court  
Lansing, Michigan

September 11, 2024

Elizabeth T. Clement,  
Chief Justice

ADM File No. 2022-57

Brian K. Zahra  
David F. Viviano  
Richard H. Bernstein  
Megan K. Cavanagh  
Elizabeth M. Welch  
Kyra H. Bolden,  
Justices

Proposed Amendments of  
Rules 6.508 and 6.509 of  
the Michigan Court Rules

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On order of the Court, this is to advise that the Court is considering amendments of Rules 6.508 and 6.509 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the [Public Administrative Hearings](#) page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and  
deleted text is shown by strikeover.]

Rule 6.508 Procedure; Evidentiary Hearing; Determination

(A)-(E) [Unchanged.]

(F) Reissue Order. If, while considering a motion filed under MCR 6.502, the court initially issues an order deciding the motion in part, within 7 days of entering an order deciding the remaining issue(s), the court must reissue the order so that all decisions on the motion are reflected in a single order.

Rule 6.509 Appeal

(A) Availability of Appeal. Appeals from decisions under this subchapter are by application for leave to appeal to the Court of Appeals pursuant to MCR 7.205(A)(1). The 6-month time limit provided by MCR 7.205(A)(4)(a), runs from the decision under this subchapter. For purposes of this subrule, a “decision under this subchapter” includes a reissued order under MCR 6.508(F). Nothing in this subchapter shall be construed as extending the time to appeal from the original judgment.

(B)-(D) [Unchanged.]

*Staff Comment (ADM File No. 2022-57):* The proposed amendments of MCR 6.508 and 6.509 would: (1) require trial courts that make a partial decision on a postjudgment motion for relief to reissue the order in its entirety after it decides the remaining issues, and (2) clarify that a reissued order constitutes a decision under subchapter 6.500 of the Michigan Court Rules for purposes of filing an application for leave to appeal with the Court of Appeals. Note that a separate proposal affecting MCR 6.509(A) is proposed under ADM File No. 2022-51.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by January 1, 2025 by clicking on the “Comment on this Proposal” link under this proposal on the [Court’s Proposed & Adopted Orders on Administrative Matters](#) page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at [ADMcomment@courts.mi.gov](mailto:ADMcomment@courts.mi.gov). When submitting a comment, please refer to ADM File No. 2022-57. Your comments and the comments of others will be posted under the chapter affected by this proposal.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 11, 2024

A handwritten signature in black ink, appearing to read "Larry S. Royster".

Clerk

**Public Policy Position**  
**ADM File No. 2022-57: Proposed Amendments of MCR 6.508 and 6.509**  
**Support**

**Explanation**

The Committee voted to support ADM File No. 2022-57. The Committee believes that the proposed amendments of MCR 6.508 and 6.509 will promote clarity, efficiency, and completeness in the courts' handling of appeals involving Rule 6.500 motions. The Committee noted that such clarity is especially important given that many Rule 6.500 motions are filed by incarcerated individuals proceeding pro se.

**Position Vote:**

Voted For position: 17

Voted against position: 1

Abstained from vote: 0

Did not vote (absence): 6

**Contact Persons:**

Daniel S. Korobkin [dkorobkin@aclumich.org](mailto:dkorobkin@aclumich.org)

Katherine L. Marcuz [kmarcuz@sado.org](mailto:kmarcuz@sado.org)

**Public Policy Position**  
**ADM File No. 2022-57: Proposed Amendments of MCR 6.508 and 6.509**

**Support**

**Explanation:**

The Committee voted unanimously to support ADM File No. 2022-57. The Committee believes that the proposed amendments of MCR 6.508 and 6.509 will improve the courts handling of Rule 6.500 motions and make the process clearer for lawyers and litigants (including the large number proceeding pro se in this area) alike.

**Position Vote:**

Voted For position: 21

Voted against position: 0

Abstained from vote: 0

Did not vote (absent): 5

**Contact Persons:**

Nimish R. Ganatra [ganatran@washtenaw.org](mailto:ganatran@washtenaw.org)

John A. Shea [jashea@earthlink.net](mailto:jashea@earthlink.net)

**Public Policy Position**  
**ADM File No. 2022-57: Proposed Amendments of MCR 6.508 and 6.509**

**Support**

**Position Vote:**

Voted for position: 15

Voted against position: 0

Abstained from vote: 0

Did not vote: 6

**Contact Person:** Fawzeih Daher

**Email:** [fdaher@bodmanlaw.com](mailto:fdaher@bodmanlaw.com)



# Order

Michigan Supreme Court  
Lansing, Michigan

September 11, 2024

Elizabeth T. Clement,  
Chief Justice

ADM File No. 2023-04

Brian K. Zahra  
David F. Viviano  
Richard H. Bernstein  
Megan K. Cavanagh  
Elizabeth M. Welch  
Kyra H. Bolden,  
Justices

Proposed Amendments of Rules  
7.212, 7.305, and 7.312 of the  
Michigan Court Rules

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On order of the Court, this is to advise that the Court is considering amendments of Rules 7.212, 7.305, and 7.312 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the [Public Administrative Hearings](#) page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and  
deleted text is shown by strikeover.]

Rule 7.212 Briefs

(A)-(G) [Unchanged.]

(H) Amicus Curiae.

- (1) Except as otherwise provided in this subrule (H) or as directed by the Court of Appeals, aAn amicus curiae brief may be filed in response to an application for leave to appeal or in response to the parties' principal briefs only on motion granted by the Court of Appeals. The motion must be filed within 21 days after the appellee's brief is filed, and there is no fee for filing the motion. If the motion seeks to file an amicus curiae brief in response to an application for leave to appeal and the application is granted, the amicus curiae may file an amicus curiae brief in response to the parties' principal briefs on appeal without further leave of the Court of Appeals. If the motion is granted, the order will state the date by which the brief must be filed.
- (2) A motion for leave to file an amicus curiae brief is not required if the brief is presented by the Attorney General on behalf of the people of the state of Michigan, the state of Michigan, or an agency or official of the state of

Michigan; on behalf of any political subdivision of the state when submitted by its authorized legal officer, its authorized agent, or an association representing a political subdivision; or on behalf of the Prosecuting Attorneys Association of Michigan, the Criminal Defense Attorneys of Michigan, the State Bar of Michigan Board of Commissioners, or a recognized practice area section of the State Bar of Michigan.

(2)-(3)[Renumbered (3)-(4) but otherwise unchanged.]

(I)-(J) [Unchanged.]

#### Rule 7.305 Application for Leave to Appeal

(A)-(E) [Unchanged.]

(F) An amicus curiae brief in support of or in opposition to an application for leave to appeal may be filed on motion granted by the Court except as provided in MCR 7.312(H)(2) or as directed by the Court. The brief must be submitted within 21 days after service of a timely-filed answer or within 21 days after the time for filing an answer under subrule (D) has passed. The brief may not exceed 3,200 words or, for self-represented litigants without access to a word-processing system, 10 pages, exclusive of tables, indexes, and appendices.

(F)-(I) [Relettered as (G)-(J) but otherwise unchanged.]

#### Rule 7.312 Briefs, Responses to Adverse Amicus Briefs, and Appendixes in Calendar Cases and Cases Argued on the Application

(A) Form and Length.

(1) Briefs in calendar cases and cases to be argued on the application must be prepared in conformity with subrule (B), MCR 7.212(B), (C), (D), and (G) as to form and length. If filed in hard copy, briefs shall be printed on only the front side of the page of good quality, white unglazed paper by any printing, duplicating, or copying process that provides a clear image. Typewritten, handwritten, or carbon copy pages may be used so long as the printing is legible.

(2) A party may file 1 signed copy of a response to an adverse amicus curiae brief filed under subrule (H), along with proof of its service on all other parties and amicus curiae. The response must:

- (a) contain only a rebuttal of the arguments in the adverse amicus curiae brief;
- (b) include a table of contents and an index of authorities; and
- (c) be no longer than 3,200 words or, for self-represented litigants without access to a word-processing system, 10 pages, exclusive of tables, indexes, and appendixes.

An adverse amicus brief is one that advocates for a ruling on an issue or a result in the case that is contrary to the position of a party to the litigation.

(B)-(D) [Unchanged.]

(E) Time for Filing. Unless the Court directs a different time for filing,

(1)-(3) [Unchanged.]

- (4) a response to an adverse amicus curiae brief, if any, is due
  - (a) within 21 days after the adverse amicus curiae brief is filed in a calendar case, or
  - (b) within 14 days after the adverse amicus curiae brief is filed in a case being argued on the application.

(F)-(G) [Unchanged.]

(H) Amicus Curiae Briefs and Argument.

- (1) An amicus curiae brief may be filed only on motion granted by the Court except as provided in ~~subrule~~section (2) or as directed by the Court. There is no fee for filing a motion under this subrule.
- (2) A motion for leave to file an amicus curiae brief (in both calendar cases and cases being argued on the application) is not required if the brief is presented by the Attorney General on behalf of the people of the state of Michigan, the state of Michigan, or an agency or official of the state of Michigan; on behalf of any political subdivision of the state when submitted by its authorized legal officer, its authorized agent, or an association representing a political subdivision; or on behalf of the Prosecuting Attorneys Association of Michigan, ~~or~~ the Criminal Defense Attorneys of Michigan, the State Bar of

Michigan Board of Commissioners, or a recognized practice area section of the State Bar of Michigan.

(3)-(6) [Unchanged.]

(I) [Unchanged.]

(J) Extending or Shortening Time; Failure to File; Forfeiture of Oral Argument.

(1) The time provided for filing and serving the briefs, responses to adverse amicus curiae briefs, and appendixes may be shortened or extended by order of the Court on its own initiative or on motion of a party.

(2)-(3) [Unchanged.]

(K) [Unchanged.]

*Staff Comment (ADM File No. 2023-04):* The proposed amendments of MCR 7.212, 7.305, and 7.312 would address the filing and timing of amicus curiae briefs. For both appellate courts, the proposal would: allow amicus curiae briefs in response to an application for leave to appeal; eliminate the motion filing fee; and expand the groups that are able to file a brief without a motion or invitation. For the Supreme Court, the proposal would also allow parties to file a response to an adverse amicus curiae brief, subject to certain timing and content requirements.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by January 1, 2025 by clicking on the “Comment on this Proposal” link under this proposal on the [Court’s Proposed & Adopted Orders on Administrative Matters](#) page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at [ADMcomment@courts.mi.gov](mailto:ADMcomment@courts.mi.gov). When submitting a comment, please refer to ADM File No. 2023-04. Your comments and the comments of others will be posted under the chapter affected by this proposal.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 11, 2024

Clerk

**Public Policy Position****ADM File No. 2023-04: Proposed Amendments of MCR 7.212, 7.305, and 7.312****Support with Amendments****Explanation**

The Committee voted unanimously to support ADM File No. 2023-04 with two further amendments: (i) eliminate the limit of 3,200 words proposed in MCR 7.305(F) and MCR 7.312(A)(2)(c); and (ii) add tribal governments to the list of those who are not required to file a motion for leave or receive an invitation to file an amicus brief in MCR 7.212 and 7.312. The Committee believes that the proposed amendments will help streamline amicus filing requirements and reduce needlessly time-consuming and expensive motion practice. Eliminating the overly restrictive page limitation will also ensure that amicus filers are able to adequately elucidate their arguments to the court.

**Position Vote:**

Voted For position: 17

Voted against position: 0

Abstained from vote: 0

Did not vote (absence): 6

**Contact Persons:**Daniel S. Korobkin [dkorobkin@aclumich.org](mailto:dkorobkin@aclumich.org)Katherine L. Marcuz [kmarcuz@sado.org](mailto:kmarcuz@sado.org)

**Public Policy Position**

**ADM File No. 2023-04: Proposed Amendments of MCR 7.212, 7.305, and 7.312**

**Support with Amendments**

**Explanation**

The Committee voted to support ADM File No. 2023-04 with three further amendments:

- (1) eliminate the limit of 3,200 words proposed in MCR 7.305(F) and MCR 7.312(A)(2)(c);
- (2) replace “in support of or in opposition to” in MCR 7.305(F) to “in response to;” and
- (3) add tribal governments, the Legal Services Association of Michigan, and legal services programs that are grantees of the federal Legal Services Corporation or the Michigan State Bar Foundation to the list of those who are not required to file a motion for leave or receive an invitation to file an amicus brief in MCR 7.212 and 7.312.

**Position Vote:**

Voted For position: 21

Voted against position: 1

Abstained from vote: 1

Did not vote (absence): 5

**Contact Person:**

Marla Linderman Richelew [mrichelew@gmail.com](mailto:mrichelew@gmail.com)

**Public Policy Position**

**ADM File No. 2023-04: Proposed Amendments of MCR 7.212, 7.305, and 7.312**

**Support with Amendments**

**Explanation:**

The Committee voted to support ADM File No. 2023-04 with two further amendments recommended by the Access to Justice Policy Committee: (i) eliminate the limit of 3,200 words proposed in MCR 7.305(F) and MCR 7.312(A)(2)(c); and (ii) add tribal governments to the list of those who are not required to file a motion for leave or receive an invitation to file an amicus brief in MCR 7.212 and 7.312.

**Position Vote:**

Voted For position: 21

Voted against position: 0

Abstained from vote: 0

Did not vote (absent): 5

**Contact Persons:**

Nimish R. Ganatra [ganatran@washtenaw.org](mailto:ganatran@washtenaw.org)

John A. Shea [jashea@earthlink.net](mailto:jashea@earthlink.net)

**Public Policy Position**

**ADM File No. 2023-04: Proposed Amendments of MCR 7.212, 7.305, and 7.312**

**Support with Recommended Amendments**

**Explanation:**

The Appellate Practice Section supports the proposed amendments to MCR 7.212, 7.305, and 7.312. However, the Section recommends striking or increasing the 3,200 word-count limit in the proposed MCR 7.305(F) and MCR 7.312(A)(2)(c).

**Position Vote:**

Voted for position: 15

Voted against position: 0

Abstained from vote: 0

Did not vote: 6

**Contact Person:** Fawzeih Daher

**Email:** [fdaher@bodmanlaw.com](mailto:fdaher@bodmanlaw.com)



**Public Policy Position**  
**ADM File No. 2023-04: Proposed Amendments of MCR 7.212, 7.305, and 7.312**

**Support with Recommended Amendments**

**Explanation**

The Children's Law Section supports ADM File No 2023-04 with a recommended amendment. In the new MCR 7.305(F), we recommend that the language "in support of or in opposition to" in the first sentence be amended to "in response to". As written, it could be interpreted that potential amici would not be allowed to file a brief under this section if they are seeking to provide information to the Court without taking a specific position supporting or opposing the application for leave to appeal. Because there are circumstances in which amici wish to provide information about the issues involved in a case without taking a position on the merits of the case, we believe that our proposed revision continues to allow them to do so without concern that they must take a position based on the language of the proposed rule.

**Position Vote:**

Voted for position: 13

Voted against position: 0

Abstained from vote: 0

Did not vote: 6

**Contact Person:** Joshua Pease

**Email:** [jpease@sado.org](mailto:jpease@sado.org)

**Public Policy Position  
ADM File No. 2023-04**

**Support with Recommended Amendments**

**Explanation**

The Family Law Section Council endorses adoption of ADM File No. 2023-04 with one proposed change, namely, adding "Legal Services Association of Michigan, the Michigan State Planning Body, and any member organizations" to the list of groups included in the amended MCR 7.212(H)(2) that don't need to move for permission to file an amicus brief.

Rule 7.212 Briefs

(A)-(G) [Unchanged.]

(H) Amicus Curiae.

\*\*\*

(2) A motion for leave to file an amicus curiae brief is not required if the brief is presented by the Attorney General on behalf of the people of the state of Michigan, the state of Michigan, or an agency or official of the state of Michigan; on behalf of any political subdivision of the state when submitted by its authorized legal officer, its authorized agent, or an association representing a political subdivision; or on behalf of the Prosecuting Attorneys Association of Michigan, the Criminal Defense Attorneys of Michigan, the State Bar of Michigan Board of Commissioners, Legal Services Association of Michigan, the Michigan State Planning Body, and any member organizations, or a recognized practice area section of the State Bar of Michigan.

**Position Vote:**

Voted for position: 18

Voted against position: 0

Abstained from vote: 0

Did not vote: 3

**Contact Person:** Donald Wheaton

**Email:** [don@lawyerhousecalls.com](mailto:don@lawyerhousecalls.com)

# Order

Michigan Supreme Court  
Lansing, Michigan

September 18, 2024

Elizabeth T. Clement,  
Chief Justice

ADM File No. 2023-25

Brian K. Zahra  
David F. Viviano  
Richard H. Bernstein  
Megan K. Cavanagh  
Elizabeth M. Welch  
Kyra H. Bolden,  
Justices

Proposed Amendment of Rule  
1.6 of the Michigan Rules of  
Professional Conduct

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On order of the Court, this is to advise that the Court is considering an amendment of Rule 1.6 of the Michigan Rules of Professional Conduct. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the [Public Administrative Hearings](#) page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and  
deleted text is shown by strikeover.]

Rule 1.6. Confidentiality of Information.

(a)-(b) [Unchanged.]

(c) A lawyer may reveal:

(1)-(3) [Unchanged.]

(4) the intention of a client to commit a crime and the information necessary to prevent the crime; ~~and~~

(5) confidences or secrets necessary to establish or collect a fee, or to defend the lawyer or the lawyer's employees or associates against an accusation of wrongful conduct; ~~and-~~

(6) confidences or secrets to the extent reasonably necessary to protect the client from self-harm that may result in the client's death.

(d) [Unchanged.]

Comment:

[Paragraphs 1-25 unchanged.]

*Confidentiality of Information.*

When transmitting a communication that contains confidential and/or privileged information relating to the representation of a client, the lawyer should take reasonable measures and act competently so that the confidential and/or privileged client information will not be revealed to unintended third parties. Any confidences or secrets that may be disclosed under paragraph (c)(6) may only be disclosed to an individual or entity who is licensed by the State of Michigan to provide information about or assistance with regard to suicidal individuals.

*Staff Comment (ADM File No. 2023-25):* The proposed amendment of MRPC 1.6 would provide an exception to the confidentiality rule by permitting a lawyer to reveal, to certain individuals, confidences or secrets to the extent reasonably necessary to protect a client from self-harm that may result in the client's death.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by January 1, 2025 by clicking on the "Comment on this Proposal" link under this proposal on the [Court's Proposed & Adopted Orders on Administrative Matters](#) page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at [ADMcomment@courts.mi.gov](mailto:ADMcomment@courts.mi.gov). When submitting a comment, please refer to ADM File No. 2023-25. Your comments and the comments of others will be posted under the chapter affected by this proposal.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 18, 2024

Clerk

Name: Elinor Jordan

Date: 09/18/2024

ADM File Number: 2023-25

Comment:

Thank you so much for considering this rule change. Please consider amending and clarifying the comment to more clearly explain what is meant by those licensed by the State of Michigan to provide support to suicidal individuals. It would not be clear to the ordinary attorney reading this language who may be disclosed to. For impoverished clients who lack health insurance, it may also result in the attorney not having anyone to whom they may disclose and if the threat is imminent, this can result in extreme distress for the attorney. If a disclosure may be made in order to prevent death, I would submit that the rules should defer to the attorney to make a decision what person would be the appropriate, trusted person who could actually prevent suicide in that situation.

Name: Austin Blessing-Nelson

Date: 10/16/2024

ADM File Number: 2023-25

Comment:

I generally agree with the proposed rule, however, I think that “by the State of Michigan” should be removed from the comment. The reason for this is if the client lives in another state and is under the care of a professional licensed in that state, the comment as currently written appears to bar a necessary disclosure being made simply because the professional is not licensed in Michigan.

In order to prevent confusion, it may also be helpful to provide some additional guidance and examples of who attorneys can and cannot make disclosures to. Making it clear who disclosures can and cannot be made to would also likely encourage attorneys to make disclosures because they would be less fearful of making an improper disclosure.

I am submitting this comment in my personal capacity and not on behalf of any organization.

Sincerely,

Austin D. Blessing-Nelson, Esq. (P84648)