

Order

Michigan Supreme Court
Lansing, Michigan

September 23, 2008

Clifford W. Taylor,
Chief Justice

ADM File No. 2007-42

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

Proposed Amendments
of Rules 7.302, 7.314, and 7.316
of the Michigan Court Rules

On order of the Court, this is to advise that the Court is considering amendments of Rules 7.302, 7.314, and 7.316 of the Michigan Court Rules. Before determining whether the proposals 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 proposals or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at www.courts.michigan.gov/supremecourt.

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 are indicated by underlining and deletions are indicated by strikeover.]

Rule 7.302 Application for Leave to Appeal

(A)-(E)[Unchanged.]

(F) If, on its own initiative or on a party's motion, the court concludes that a brief does not substantially comply with the requirements of this rule, it may order the party who filed the brief to file a supplemental brief within a specified time correcting the deficiencies, or it may strike the nonconforming brief.

(F)-(H)[Unchanged but relettered (G)-(I).]

Rule 7.314 Appeals in Which No Progress Has Been Made

(A)-(B)[Unchanged.]

- (C) The court may dismiss an appeal, application, or an original proceeding for lack of jurisdiction or failure of a party to pursue the case in conformity with the rules.

Rule 7.316 Miscellaneous Relief Obtainable in Supreme Court

- (A) Relief Obtainable. The Supreme Court may, at any time, in addition to its general powers:
- (1) exercise any or all of the powers of amendment of the court or tribunal below;
 - (2) on reasonable notice as it may require, allow substitution of parties by reason of marriage, death, bankruptcy, assignment, or any other cause; allow new parties to be added or parties to be dropped; or allow parties to be rearranged as appellants or appellees;
 - (3) permit the reasons or grounds of appeal to be amended or new grounds to be added;
 - (4) permit the transcript or record to be amended by correcting errors or adding matters which should have been included;
 - (5) adjourn the case until further evidence is taken and brought before it, as the Court may deem necessary in order to do justice;
 - (6) draw inferences of fact;
 - (7) enter any judgment or order that ought to have been entered, and enter other and further orders and grant relief as the case may require; or
 - (8) if a judgment notwithstanding the verdict is set aside on appeal, grant a new trial or other relief as it deems just.
 - (9) dismiss an appeal, application, or an original proceeding for lack of jurisdiction or failure of a party to pursue the case in conformity with the rules.

(B)-(D)[Unchanged.]

Staff Comment: These proposals would give the Supreme Court the authority to correct a deficient brief or to strike a nonconforming brief, similar to the authority given the Court of Appeals in MCR 7.212(I). The proposals would also allow the Supreme

Court to dismiss a case in which a party failed to pursue the case in conformity with the rules.

The staff comment is not an authoritative construction by the 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 these proposals may be sent to the Supreme Court Clerk in writing or electronically by January 1, 2009, at P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@courts.mi.gov. When filing a comment, please refer to ADM File No. 2007-42. Your comments and the comments of others will be posted at www.courts.mi.gov/supremecourt/resources/administrative/index.htm.



I, Corbin R. Davis, 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 23, 2008

Corbin R. Davis

Clerk