

Order

Michigan Supreme Court
Lansing, Michigan

March 16, 2010

Marilyn Kelly,
Chief Justice

ADM File No. 2009-04

Michael F. Cavanagh
Elizabeth A. Weaver
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway,
Justices

Amendment of Rule 2.003
of the Michigan Court Rules

On order of the Court, the following amendment of Rule 2.003 of the Michigan Court Rules is adopted, effective March 16, 2010.

[Additions are indicated by underline, and deletions by strikethrough.]

Rule 2.003 Disqualification of Judge

(A)-(C) [Unchanged.]

(D) Procedure.

- (1)(a) *Time for Filing in the Trial Courts.* To avoid delaying trial and inconveniencing the witnesses, all motions to for disqualification must be filed within 14 days ~~after~~of the moving party's ~~discoverys~~of the grounds for disqualification. If the discovery is made within 14 days of the trial date, the motion must be made forthwith.
- (b) *Time for Filing in the Court of Appeals.* All motions for disqualification must be filed within 14 days of disclosure of the judges' assignment to the case or within 14 days of the discovery of the grounds for disqualification. If a party discovers the grounds for disqualification within 14 days of a scheduled oral argument or argument on the application for leave to appeal, the motion must be made forthwith.
- (c) *Time for Filing in the Supreme Court.* If an appellant is aware of grounds for disqualification of a justice, the appellant must file a motion to disqualify with the application for leave to appeal. All other motions must be filed within 28 days after the filing of the application for leave to appeal or within 28 days of the discovery of the grounds for disqualification. If a

party discovers the grounds for disqualification within 28 days of a scheduled oral argument or argument on the application for leave to appeal, the motion must be made forthwith.

All requests for review by the entire Court pursuant to subsection (3)(b) must be made within 14 days of the entry of the decision by the individual justice.

- (d) Untimely Motions. Untimely motions in the trial court, the Court of Appeals, and the Supreme Court may be granted for good cause shown. If a motion is not timely filed in the trial court, the Court of Appeals, or the Supreme Court, ~~untimeliness, including delay in waiving jury trial,~~ is a factor in deciding whether the motion should be granted.

(2)-(4)[Unchanged.]

(E) [Unchanged.]

Staff Comment: The amendment of MCR 2.003(D) establishes time requirements for filing motions for disqualification in the trial courts, Court of Appeals, and the Supreme Court.

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



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.

March 16, 2010

Corbin R. Davis

Clerk