

Order

Michigan Supreme Court
Lansing, Michigan

October 20, 2011

ADM File No. 2010-25

Proposed Amendment of Rule 7.210
of the Michigan Court Rules

Robert P. Young, Jr.,
Chief Justice

Michael F. Cavanagh
Marilyn Kelly
Stephen J. Markman
Diane M. Hathaway
Mary Beth Kelly
Brian K. Zahra,
Justices

On order of the Court, this is to advise that the Court is considering an amendment of Rule 7.210 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 also will be considered at a public hearing. The notices and agendas for public hearings are posted at www.courts.michigan.gov/supremecourt/resources/administrative/ph.htm.

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.

[The present language is amended with new language indicated in underlining and deleted language is overstricken.]

Rule 7.210 Record on Appeal

(A)-(B)[Unchanged.]

(C) Exhibits. ~~Within 21 days after the claim of appeal is filed, a party possessing any exhibits offered in evidence, whether admitted or not, shall file them with the trial court or tribunal clerk, unless by stipulation of the parties or order of the trial court or tribunal they are not to be sent, or copies, summaries, or excerpts are to be sent. Xerographic copies of exhibits may be filed in lieu of originals unless the trial court or tribunal orders otherwise. When the record is returned to the trial court or tribunal, the trial court or tribunal clerk shall return the exhibits to the parties who filed them.~~ The trial court or tribunal shall retain originals or legible copies of all documentary, photographic, video, or audio exhibits offered in evidence, whether admitted or not. If no claim of appeal has been filed

upon expiration of the time for doing so, the trial court or tribunal may return such exhibits to the parties who offered them. By stipulation of the parties or order of the trial court or tribunal, exhibits in other forms may be returned to the parties who offered them. Appellants are entitled to access the exhibits or proposed exhibits that are not in documentary, photograph, video, or audio form upon a showing of good cause and the filing of a motion seeking such access within the time for filing appellant's brief on appeal. When the record is returned to the trial court or tribunal, the trial court or tribunal clerk shall return the exhibits to the parties who filed them.

(D)-(I)[Unchanged.]

Staff Comment: This amendment was proposed by James Neuhard, former director of the State Appellate Defender Office. The proposed amendment would require trial courts to become the depository for exhibits offered in evidence (whether those exhibits are admitted or not), instead of requiring parties to submit exhibits offered in evidence when a case is submitted to the Court of Appeals on a claim of appeal.

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 the proposal may be sent to the Supreme Court Clerk in writing or electronically by February 1, 2012, at P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@courts.mi.gov. When filing a comment, please refer to ADM File No. 2010-25. 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.

October 20, 2011

Corbin R. Davis
Clerk