

Order

Michigan Supreme Court
Lansing, Michigan

March 19, 2025

Elizabeth T. Clement,
Chief Justice

ADM File No. 2023-04

Brian K. Zahra
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden
Kimberly A. Thomas,
Justices

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

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendments of Rules 7.212, 7.305, and 7.312 of the Michigan Court Rules are adopted, effective May 1, 2025.

[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 or as directed by the Court of Appeals, an 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:

(a) 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;

- (b) on behalf of any political subdivision of the state or a tribal government when submitted by its authorized legal officer, its authorized agent, or an association representing a political subdivision or a tribal government;
- (c) by the State Bar of Michigan Board of Commissioners or a recognized practice area section or committee of the State Bar of Michigan;
- (d) on behalf of the Michigan State Planning Body;
- (e) on behalf of the State Appellate Defender Office as permitted by law;
or
- (f) on behalf of an organization that is tax exempt under sections 501(c)(3) or 501(c)(6) of the Internal Revenue Code, 26 USC 501. Amicus curiae briefs filed under this subrule must include an attestation at the end of the brief that the organization is tax exempt as provided in this subrule.

(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 response 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 the timely filing of the answer or within 21 days after the time for filing the answer under subrule (D) has passed. Except as otherwise provided in this subrule, a brief filed under this subrule must conform to MCR 7.312(H).

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

(~~H~~G) Submission and Argument. Applications for leave to appeal may be submitted for a decision after the reply brief has been filed or the time for filing such has expired, whichever occurs first. There is no oral argument on an application for leave to appeal unless ordered by the Court under subrule (~~I~~H)(1).

(H)-(I) [Relettered as (I)-(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 service of the adverse amicus curiae brief in a calendar case, or
 - (b) within 14 days after service of the adverse amicus curiae brief 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 in calendar cases or cases being argued on the application if the brief is presented:
 - (a) 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;
 - (b) on behalf of any political subdivision of the state or a tribal government when submitted by its authorized legal officer, its authorized agent, or an association representing a political subdivision or a tribal government;
 - (c) ~~or on behalf of the Prosecuting Attorneys Association of Michigan or the Criminal Defense Attorneys of Michigan~~ by the State Bar of Michigan Board of Commissioners or a recognized practice area section or committee of the State Bar of Michigan;
 - (d) on behalf of the Michigan State Planning Body;
 - (e) on behalf of the State Appellate Defender Office as permitted by law;
or
 - (f) on behalf of an organization that is tax exempt under sections 501(c)(3) or 501(c)(6) of the Internal Revenue Code, 26 USC 501. Amicus curiae briefs filed under this subrule must include an attestation at the end of the brief that the organization is tax exempt as provided in this subrule.

(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 amendments of MCR 7.212, 7.305, and 7.312 address the filing and timing of amicus curiae briefs. For both appellate courts, the amendments: allow amicus curiae briefs in response to an application for leave to appeal; eliminate the motion filing fee; and expand the groups that may file a brief without a motion or invitation. For the Supreme Court, the amendments 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.



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.

March 19, 2025

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

Clerk