

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

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. 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