

Order

Michigan Supreme Court
Lansing, Michigan

March 21, 2018

Stephen J. Markman,
Chief Justice

ADM File No. 2017-03

Brian K. Zahra
Bridget M. McCormack
David F. Viviano
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Justices

Amendments of Rules 2.614, 2.622, 3.203, 3.211,
3.214, 3.301, 3.302, 3.305, 3.602, 3.616, 3.617, 3.706,
3.707, 3.708, 3.982, 5.144, 6.110, 7.107, 7.108, 7.201,
7.204, 7.205, 7.209, 7.215, 7.305, 7.306, 9.207, 9.223,
9.224 of the Michigan Court Rules and Rule 2.119 of
the Court of Claims Local Rules

On order of the Court, the following amendments are adopted, effective immediately.

[Additions to the text are indicated in underlining
and deleted text is shown by strikeover.]

Rule 2.614 Stay of Proceedings to Enforce Judgment

(A) Automatic Stay; Exceptions: Injunctions, Receiverships, and Family Litigation.

- (1) Except as provided in this rule, execution may not issue on a judgment and proceedings may not be taken for its enforcement until 21 days after a final judgment (as defined in MCR 7.202~~6~~[6]) is entered in the case. If a motion for new trial, a motion for rehearing or reconsideration, or a motion for other relief from judgment is filed and served within 21 days after entry of the judgment or within further time the trial court has allowed for good cause during that 21-day period, execution may not issue on the judgment and proceedings may not be taken for its enforcement until the expiration of 21 days after the entry of the order deciding the motion, unless otherwise ordered by the court on motion for good cause. Nothing in this rule prohibits the court from enjoining the transfer or disposition of property during the 21-day period.

(2)-(3) [Unchanged.]

(B)-(G) [Unchanged.]

Rule 2.622 Receivers

- (A) [Unchanged.]
- (B) Selection of Receiver. If the court determines there is good cause to appoint a receiver, the court shall select the receiver in accordance with this subrule. Every receiver selected by the court must have sufficient competence, qualifications, and experience to administer the receivership estate.
 - (1)-(5) [Unchanged.]
 - (6) Except as otherwise provided by law or by subrule (B)(7), a person or entity may not serve as a receiver or in any other professional capacity representing or assisting the receiver, if such person or entity:
 - (a)-(g) [Unchanged.]
 - (h) is an “insider” as defined by MCL 566.31(hg);
 - (i)-(j) [Unchanged.]
 - (7) [Unchanged.]
- (C)-(I) [Unchanged.]

Rule 3.203 Service of Notice and Court Papers in Domestic Relations Cases

- (A)-(I) [Unchanged.]
- (J) Service of Informational Pamphlet. If a child of the parties or a child born during the marriage is under the age of 18, or if a party is pregnant, or if child support or spousal support is requested, the plaintiff must serve with the complaint a copy of the friend of the court informational pamphlet required by MCL 552.505(1a)(c). The proof of service must state that service of the informational pamphlet has been made.

Rule 3.211 Judgments and Orders

- (A) [Unchanged.]
- (B) A judgment of divorce, separate maintenance, or annulment must include

- (1) the insurance ~~and dower~~ provisions required by MCL 552.101;
- (2) a determination of the rights of the parties in pension, annuity, and retirement benefits, as required by MCL 552.101(34);
- (3)-(4) [Unchanged.]
- (C) [Unchanged.]
- (D) Uniform Support Orders
 - (1)-(2) [Unchanged.]
 - (3) ~~The clerk shall charge a single judgment entry fee when a Uniform Support Order is submitted for entry along with a judgment order that incorporates it by reference.~~
- (E)-(H) [Unchanged.]

Rule 3.214 Actions Under Uniform Acts

- (A) Governing Rules. Actions under the Revised Uniform Reciprocal Enforcement of Support Act (RURESA), MCL 780.151 *et seq.*, the Uniform Interstate Family Support Act (UIFSA), MCL 552.2+101 *et seq.*, and the Uniform Child-Custody Jurisdiction and Enforcement Act (UCCJEA), MCL 722.1101 *et seq.*, are governed by the rules applicable to other civil actions, except as otherwise provided by those acts and this rule.
- (B) [Unchanged.]
- (C) Sending Notices in UIFSA cases. The friend of the court office shall send all notices and copies of orders required to be sent by the tribunal under MCL 552.2+101 *et seq.*
- (D) [Unchanged.]

Rule 3.301 Extraordinary Writs in General

- (A)-(F) [Unchanged.]
- (G) Procedure Where Relief is Sought in Supreme Court or Court of Appeals.

- (1) MCR 7.3064 applies to original proceedings brought in the Supreme Court to obtain relief under this subchapter.
- (2) [Unchanged.]

Rule 3.302 Superintending Control

- (A) [Unchanged.]
- (B) Policy Concerning Use. If another adequate remedy is available to the party seeking the order, a complaint for superintending control may not be filed. See subrule (D)(2), and MCR 7.101(A)(2), and 7.306304(A).
- (C)-(E) [Unchanged.]

Rule 3.305 Mandamus

- (A) Jurisdiction
 - (1) An action for mandamus against a state officer may be brought in the Court of Appeals or the Court of Claims~~seircuit court~~.
 - (2) [Unchanged.]
- (B)-(G) [Unchanged.]

Rule 3.602 Arbitration

- (A)-(I) [Unchanged.]
- (J) Vacating Award.
 - (1)-(3) [Unchanged.]
 - (4) In vacating the award, the court may order a rehearing before a new arbitrator chosen as provided in the agreement, or, if there is no such provision, by the court. If the award is vacated on grounds stated in subrule (J)(2)(c) or (d), the court may order a rehearing before the arbitrator who made the award. The time within which the agreement requires the award to be made is applicable to the rehearing and commences from the date of the order.
 - (5) [Unchanged.]

(K)-(N) [Unchanged.]

Rule 3.616 Proceeding to Determine Continuation of Voluntary Foster Care Services.

(A)-(B) [Unchanged.]

(C) Court File. Upon the filing of a petition under subrule (E), the court shall open a file using the appropriate case classification code ~~from~~ as referenced in MCR 8.117(A)(9). The file shall be closed following the issuance of the court's determination under subrule (F).

(D)-(G) [Unchanged.]

Rule 3.617 Delayed Registration of ~~Foreign~~ Birth

The entire record for delayed registration of ~~foreign birth pursuant to MCL 333.2830~~ is confidential. Except as otherwise ordered by the court, only the legal parent or parents and the child may gain access to the confidential file, and no information relating to a confidential record, including whether the record exists, shall be accessible to the general public.

Rule 3.706 Orders

(A)-(D) [Unchanged.]

(E) Oral Notice. If oral notice of the order is made by a law enforcement officer as described in MCL 600.2950(22) or 600.2950a(~~22~~19), proof of the notification must be filed with the court by the law enforcement officer.

Rule 3.707 Modification, Termination, or Extension of Order

(A) Modification or Termination.

(1) [Unchanged.]

(2) Hearing on the Motion. The court must schedule and hold a hearing on a motion to modify or terminate a personal protection order within 14 days of the filing of the motion, except that if the respondent is a person described in MCL 600.2950(2) or 600.2950a(~~52~~), the court shall schedule the hearing on the motion within 5 days after the filing of the motion.

(3) [Unchanged.]

(B)-(D) [Unchanged.]

Rule 3.708 Contempt Proceedings for Violation of Personal Protection Orders

(A) In General.

(1) A personal protection order is enforceable under MCL 600.2950(23), (25), 600.2950a(230), (252), 764.15b, and 600.1701 et seq. For the purpose of this rule, “personal protection order” includes a foreign protection order enforceable in Michigan under MCL 600.29501.

(2) [Unchanged.]

(B)-(I) [Unchanged.]

Rule 3.982 Enforcement of Minor Personal Protection Orders

(A) In General. A minor personal protection order is enforceable under MCL 600.2950(22), (25), 600.2950a(2249), (252), 764.15b, and 600.1701 et seq. For the purpose of MCR 3.981-3.989, “minor personal protection order” includes a foreign protection order against a minor respondent enforceable in Michigan under MCL 600.29501.

(B)-(C) [Unchanged.]

Rule 5.144 Administrative Closed File

(A) Administrative Closing. The Court may administratively close a file

(1)-(2) [Unchanged.]

In a conservatorship, the court may administratively close a file only when there are insufficient assets in the estate to employ a successor or special fiduciary, or after notice and hearing upon a finding of good cause.—~~If the court administratively closes the conservatorship, the court shall provide notice to the state court administrative office of the closure.~~

(B) [Unchanged.]

Rule 6.110 The Preliminary Examination

(A) [Unchanged.]

(B) Time of Examination; Remedy.

(1) Unless adjourned by the court, the preliminary examination must be held on the date specified by the court at the arraignment on the warrant or complaint. If the parties consent, ~~for good cause shown,~~ the court may adjourn the preliminary examination for a reasonable time. If a party objects, the court may not adjourn a preliminary examination unless it makes a finding on the record of good cause shown for the adjournment. A violation of this subrule is deemed to be harmless error unless the defendant demonstrates actual prejudice.

(2) [Unchanged.]

(C)-(I) [Unchanged.]

Rule 7.107 Authority of Trial Court or Agency

After a claim of appeal is filed or leave to appeal is granted, jurisdiction vests in the circuit court. The trial court or agency may not set aside or amend the judgment, order, or decision appealed except by circuit court order or as otherwise provided by law. In all other respects, the authority of the trial court or agency is governed by MCR 7.208(C) through ~~(J)~~.

Rule 7.108 Stay of Proceedings; Bond; Review

(A) [Unchanged.]

(B) Civil Actions.

(1) [Unchanged.]

(2) Effect of Appeal. An appeal does not stay execution unless:

(a) [Unchanged.]

(b) the trial court grants a stay with or without bond under MCR 3.604(L), MCR 7.209(E)~~(2)~~(b), or MCL 600.2605. The stay order must conform to any condition expressly required by the statute authorizing review.

(3)-(7) [Unchanged.]

(C)-(D) [Unchanged.]

Rule 7.201 Organization and Operation of Court of Appeals

(A) [Unchanged.]

(B) Court of Appeals Clerk; Place of Filing Papers; Fees.

- (1) The court shall appoint a chief clerk who is subject to the requirements imposed on the Supreme Court clerk in MCR 7.3019(C). The clerk's office must be located in Lansing and be operated under the court's direction. With the court's approval, the clerk may appoint assistant and deputy clerks.

(2)-(3) [Unchanged.]

(C)-(H) [Unchanged.]

Rule 7.204 Filing Appeal of Right; Appearance

(A) Time Requirements. The time limit for an appeal of right is jurisdictional. See MCR 7.203(A). The provisions of MCR 1.108 regarding computation of time apply. For purposes of subrules (A)(1) and (A)(2), "entry" means the date a judgment or order is signed, or the date that data entry of the judgment or order is accomplished in the issuing tribunal's register of actions.

(1) [Unchanged.]

(2) An appeal of right in a criminal case must be taken

(a)-(c) [Unchanged.]

(d) within 42 days after the entry of an order denying a motion for a new trial, for directed verdict of acquittal, or to correct an invalid sentence, if the motion was filed within the time provided in MCR 6.419(CB), 6.429(B), or 6.431(A), as the case may be.

(e) [Unchanged.]

(3) [Unchanged.]

(B)-(H) [Unchanged.]

Rule 7.205 Application for Leave to Appeal

(A)-(F) [Unchanged.]

(G) Late Appeal.

(1)-(3) [Unchanged.]

(4) The limitation provided in subrule (G)(3) does not apply to an application for leave to appeal by a criminal defendant if the defendant files an application for leave to appeal within 21 days after the trial court decides a motion for a new trial, for directed verdict of acquittal, to withdraw a plea, or to correct an invalid sentence, if the motion was filed within the time provided in MCR 6.310(C), MCR 6.419(~~C~~B), MCR 6.429(B), and MCR 6.431(A), or if

[remainder unchanged.]

(5)-(6) [Unchanged.]

(H) [Unchanged.]

Rule 7.209 Bond; Stay of Proceedings

(A)-(D) [Unchanged.]

(E) Stay of Proceedings by Trial Court.

(1) [Unchanged.]

(2) An appeal does not stay execution unless:

(a) Except in a domestic relations matter, the party seeking to stay a money judgment~~With respect to a money judgment, the party seeking the stay~~ files with the court a bond in compliance with MCR 3.604 ~~and~~ in an amount not less than 110% of the judgment or order being enforced, including any costs, interest, attorney fees, and sanctions assessed to the date of filing the bond, with the party in whose favor the judgment or order was entered as the obligee, by which the party promises to

(i) perform and satisfy the judgment or order stayed if it is not set aside or reversed; ~~and~~

- (ii) prosecute to completion any appeal subsequently taken from the judgment or order stayed and perform and satisfy the judgment or order entered by the Court of Appeals or Supreme Court; or
- (b) ~~With respect to all other judgments, including those obtained in a domestic relations matter, the~~ The trial court grants a stay with or without bond, or with a reduced bond, as justice requires or as otherwise provided by statute (see MCL 500.3036).
- (c) ~~The court may order, on stipulation or otherwise, other forms of security in lieu of the bond in subsection (E)(2)(a), including but not limited to an irrevocable letter of credit.~~
- (3) The court may order, on stipulation or otherwise, other forms of security in lieu of the bond in subsection (E)(2)(a), including but not limited to an irrevocable letter of credit.
- (43) When the bond is filed under ~~or other security in~~ subsections (E)(2)(a)-(c) ~~is filed~~, the judgment or order shall automatically be stayed pending entry of a final order under subsection (G).

(4)-(6) [Renumbered (5)-(7) but otherwise unchanged.]

(F)-(I) [Unchanged.]

Rule 7.215 Opinions, Orders, Judgments, and Final Process for Court of Appeals

(A)-(E) [Unchanged.]

(F) Execution and Enforcement.

- (1) Routine Issuance. Unless otherwise ordered by the Court of Appeals or the Supreme Court or as otherwise provided by these rules,
 - (a) [Unchanged.]
 - (b) execution on the Court of Appeals judgment is to be obtained or enforcement proceedings had in the trial court or tribunal after the record has been returned (by the clerk under MCR 7.210[H] or by the Supreme Court clerk under MCR 7.310[H]~~[B]~~) with a certified copy of the court's judgment or, if a record was not transmitted to

the Court of Appeals, after the time specified for return of the record had it been transmitted.

(2) [Unchanged.]

(G)-(J) [Unchanged.]

Rule 7.305 Application for Leave to Appeal

(A)-(H) [Unchanged.]

(I) Stay of Proceedings. MCR 7.209 applies to appeals in the Supreme Court. When a stay bond has been filed on appeal to the Court of Appeals under MCR 7.209 or a stay has been entered or takes effect pursuant to MCR 7.209(E)(74), it operates to stay proceedings pending disposition of the appeal in the Supreme Court unless otherwise ordered by the Supreme Court or the Court of Appeals.

Rule 7.306 Original Proceedings

(A)-(C) [Unchanged.]

(D) Brief by Respondent in Action Against Attorney Grievance Commission or Attorney Discipline Board. A respondent in an action against the Attorney Grievance Commission or Attorney Discipline Board may file a response brief with the clerk within ~~28~~ days after service of the complaint, and a proof that a copy of the response brief was served on plaintiff and defendant. A response brief filed under this subsection shall conform to MCR 7.212(B) and (D).

(E)-(I) [Unchanged.]

Rule 9.207 Investigation; Notice

(A)-(C) [Unchanged.]

(D) Notice to Judge.

(1)-(4) [Unchanged.]

(5) If the commission admonishes a judge pursuant to MCR 9.207(B)(4):

(a) The judge may file one signed original~~24 copies~~ of a petition for review in the Supreme Court, serve two copies on the commission, and file a proof of service with the commission within 28 days of the

date of the admonishment. The petition for review, and any subsequent filings, shall be placed in a confidential file and shall not be made public unless ordered by the Court.

- (b) [Unchanged.]
- (c) The Supreme Court shall review the admonishment in accordance with MCR 9.225. Any opinion or order entered pursuant to a petition for review under this subrule shall be published and shall have precedential value pursuant to MCR 7.3157.

(E)-(F) [Unchanged.]

Rule 9.223 Filing and Service of Documents by Commission

Within 21 days after entering an order recommending action with regard to a respondent, the commission must take the action required by subrules (A) and (B).

(A) Filings in Supreme Court. The commission must file in the Supreme Court:

- (1) [Unchanged.]
- (2) one24 copyies of the order; and
- (3) [Unchanged.]

(B) [Unchanged.]

Rule 9.224 Review by Supreme Court

(A) Petition by Respondent. Within 28 days after being served, a respondent may file in the Supreme Court one24 copyies of

- (1)-(2) [Unchanged.]

The respondent must serve the commission with 3 copies of the petition and 2 copies of the appendix and file proof of that service.

(B) Brief of Commission. Within 21 days after respondent's petition is served, the commission must file

- (1) one24 copyies of a brief supporting its finding, and

(2) [Unchanged.]

The commission may file one²⁴ copies of an appendix containing portions of the record not included in the respondent's appendix that the commission believes necessary to fairly judge the issues.

(C)-(F) [Unchanged.]

Court of Claims Local Court Rules
Rule 2.119 Motion Practice

(A) Form of Motions.

(1)-(3) [Unchanged.]

(4) All motions and responses shall include as part of the title the date of filing of the motion. (For example, DATE [~~mmdd/ddmm~~/yyyy] followed by MOTION FOR . . . or RESPONSE TO THE [~~mmdd/ddmm~~/yyyy] MOTION FOR . . .).

(5)-(6) [Unchanged.]

(B) [Unchanged.]

(C) Time for Service and Filing of Motions, ~~and~~ Responses, and Reply Briefs.

(1)-(3) [Unchanged.]

(4) Unless a different period is set by the court for good cause, any reply brief filed pursuant to MCR 2.116(G)(1)(a)(iii) must be filed and served within 4 days after the response is filed.

~~(45)~~ If the court sets a different time for serving a motion or response its authorization must be endorsed in writing on the face of the motion or response, or made by separate order.

~~(56)~~ Unless the court sets a different time, any discovery motion must be filed at least 21 days before the discovery cut-off date.

(D)-(G) [Unchanged.]

Staff Comment: These amendments update cross-references and make other nonsubstantive revisions to clarify the rules. The amendment of MCR 6.110(B)(1) addresses an inadvertent omission from the last amendment of this rule that was intended to be shown in overstrike. Accordingly, the current rule does not match the published version. Striking the clause “for good cause shown” will provide consistency with other published versions of the rule and with the statute, MCL 766.7, which allows a magistrate to adjourn a preliminary examination with the consent of the parties without the need for good cause to be shown.

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 21, 2018

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Clerk