

**Public Policy Position
ADM File No. 2019-27**

The Appellate Practice Section is a voluntary membership section of the State Bar of Michigan, comprised of 791 members. The Appellate Practice Section is not the State Bar of Michigan and the position expressed herein is that of the Appellate Practice Section only and not the State Bar of Michigan. The State Bar’s position on this matter to support ADM File No. 2019-27 with the following amendment to MCR 7.205 (A)(4)(b): “a delayed application for leave to appeal may be filed within the later of 6 months from entry of the order appealed, 21 days after entry of the dismissal order, or 21 days after entry of an order denying reconsideration of the dismissal order”

The Appellate Practice Section has a public policy decision-making body with 24 members. On June 5, 2020, the Section adopted its position after an electronic discussion and vote. 21 members voted in favor of the Section’s position on ADM File No. 2019-27, 0 members voted against this position, 0 members abstained, 3 members did not vote.

Support

Explanation

The Section supports ADM File No. 2019-27 for the reasons presented in the attached letter.

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APPELLATE PRACTICE SECTION

July 1, 2020

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Ms. Anne M. Boomer
Administrative Counsel, Michigan Supreme Court
Michigan Hall of Justice
P.O. Box 30052
Lansing, MI 48909

Re: ADM File No. 2019-27

Dear Ms. Boomer:

The Michigan Supreme Court has invited comments on ADM File No. 2019-27. By a unanimous vote, the Appellate Practice Section Council has adopted the following comment in support of these proposed amendments.

The proposed amendments to MCR 7.205 and other related rules are the result of a collaborative project between our Council, the State Appellate Defender Office, and several other essential stakeholders. We are particularly grateful to the judges and staff of the Michigan Court of Appeals, who were quick to recognize our concerns and work with us to ensure language that would improve appellate practice for the Court and practitioners alike.

We believe the proposals would streamline and clarify the process for filing applications for leave to appeal in the Court of Appeals, especially in criminal cases where the typical practice is sometimes at odds with the language of the existing rule. This can cause confusion, missed deadlines, and other avoidable problems, particularly for newer practitioners handling appointed guilty-plea appeals. The proposals would also eliminate a significant amount of unnecessary language, resulting in a simpler and more straightforward set of standards for appeals by application.

We are aware that the Michigan Coalition of Family Law Appellate Attorneys has written a letter to the Supreme Court expressing concern that the proposed MCR 7.205(A)(4)(b) could be interpreted to reduce the time for filing a delayed appeal after a dismissal for lack of jurisdiction, and suggesting alternate language that “a delayed application for leave to appeal may be filed within the later of 6 months from entry of the order appealed, 21 days after entry of the dismissal order, or 21 days after entry of an order denying reconsideration of the dismissal order . . .” Some members of our Council share this concern, and we have no substantive objections to the proposed alternate language.

We thank you for this opportunity to comment.

Very truly yours,

s/Bradley R. Hall
Chair, Appellate Practice Section