

June 30, 2020

Larry S. Royster
Clerk of the Court
Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

RE: ADM File No. 2019-29 – Proposed Amendments of Rules 7.212 and 7.312 of the Michigan Court Rules

Dear Clerk Royster:

At its June 12, 2020 meeting, the Board of Commissioners of the State Bar of Michigan (Board) considered the above-referenced proposed rule amendments published for comment. In its review, the Board considered recommendations from the Civil Procedure & Courts Committee and the Appellate Practice Section.

Based on this review, the Board voted unanimously to support the proposed rule amendments. The proposed rule changes will make the appendix rule more consistent within the Court of Appeals and the Supreme Court.

In addition, the Board is providing additional suggestions from its Civil Procedure & Courts Committee for the Court's consideration.

We thank the Court for the opportunity to comment on the proposed amendments.

Sincerely,



Janet K. Welch
Executive Director

cc: Anne Boomer, Administrative Counsel, Michigan Supreme Court
Dennis M. Barnes, President

Public Policy Position
ADM File No. 2019-29

The Civil Procedure & Courts Committee is comprised of members appointed by the President of the State Bar of Michigan. The position expressed is that of the Civil Procedure & Courts Committee only and is not an official position of the State Bar of Michigan, nor does it necessarily reflect the views of all members of the State Bar of Michigan. The State Bar's position in this matter is to support the proposed amendments and provide the Court with the comments from the Civil Procedure & Courts Committee.

The Civil Procedure & Courts Committee has a public policy decision-making body with 27 members. On May 21, the Committee adopted its position after a discussion and vote at a scheduled meeting. 20 members voted in favor of the Committee's position on ADM File No. 2019-29, 0 members voted against this position, 0 members abstained, 7 members did not vote.

Support with Amendments

Explanation

The committee voted unanimously to support ADM File No. 2019-29 with amendments. The committee supports the proposed rules because they would make the appendix rule consistent within Court of Appeals and the Supreme Court; however, the committee raises questions and concerns regarding the proposed rule amendments.

- The committee is concerned that as currently proposed MCR 7.212(J)(2)(B) imposes electronic format and booking requirements on appendices before the Court's pilot program on electronic briefs has concluded. Section 7.212(J)(2)(B) appears to get ahead of the pilot program – a program that is currently evaluating whether the electronic brief technology is affordable and accessible to all practitioners.
- The committee recommends clarification on whether practitioners need a separate Table of Contents for each volume of appendices or whether one full Table of Contents is sufficient.
- The committee recommends consideration of whether exclusions as currently proposed in MCR 7.212(J)(1)(a)-(f), should also apply to briefs in the Supreme Court, rather than being carved out.

Contact Person: Randy J. Wallace

Email: rwallace@olsmanlaw.com