

Report on Public Policy Position

Name of section:

Appellate Practice Section

Contact person:

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Regarding:

A recommended amendment to MCR 7.212(C)(7) and MCR 7.215(C)(1) to modify requirement of attaching copies of unpublished opinions to appeal briefs; but eliminate the requirement if opinion is a decision of the Michigan Court of Appeals released after 7/1/96.

Date position was adopted:

June 18, 2009

Process used to take the ideological position:

Position adopted after discussion and vote at a schedule meeting

Number of members in the decision-making body:

24

Number who voted in favor and opposed to the position:

13 Voted for position

0 Voted against position

0 Abstained from vote

9 Did not vote

Explanation of the position, including any recommended amendments:

The appellate rules should be updated to reflect the fact that unpublished decisions released after 7/1/96 are readily available to the court and the public.

[Proposed additions capitalized.]

MCR 7.212

(A) – (B) Unchanged.

(C) Appellant's Brief; Contents. The appellant's brief must contain, in the following order:

(1) – (6) Unchanged.

(7) The arguments, each portion of which must be prefaced by the principal point stated in capital letters or boldface type. As to each issue, the argument must include a statement of the applicable standard or standards of review and supporting authorities. Facts stated must be supported by specific page references to the transcript, the

pleadings, or other document or paper filed with the trial court. Page references to the transcript, the pleadings, or other document or paper filed with the trial court must also be given to show whether the issue was preserved for appeal by appropriate objection or by other means. If determination of the issues presented requires the study of a constitution, statute, ordinance, administrative rule, court rule, rule of evidence, judgment, order, written instrument, or document, or relevant part thereof, this material must be reproduced in the brief or in an addendum to the brief. If an argument is presented concerning the sentence imposed in a criminal case, the appellant's attorney must send a copy of the presentence report to the court at the time the brief is filed. ANY UNPUBLISHED JUDICIAL OPINION, ORDER, OR OTHER WRITTEN DISPOSITION MUST BE ATTACHED TO THE BRIEF UNLESS IT IS AN UNPUBLISHED DECISION OF THIS COURT RELEASED AFTER JULY 1, 1996 (THE DATE AFTER WHICH ALL COURT OF APPEALS OPINIONS ARE AVAILABLE ON THE COURT OF APPEALS WEBSITE), AND THE CITATION IN THE BRIEF REFERENCES THE COURT OF APPEALS CASE NUMBER.

MCR 7.215:

(A) – (B) Unchanged.

(C) Precedent of Opinions.

(1) An unpublished opinion is not precedentially binding under the rule of stare decisis. A party who cites an unpublished opinion must provide a copy of the opinion to the court and to opposing parties with the brief or other paper in which the citation appears, EXCEPT THAT UNPUBLISHED DECISIONS OF THIS COURT RELEASED AFTER JULY 1, 1996 (THE DATE AFTER WHICH ALL COURT OF APPEALS OPINIONS ARE AVAILABLE ON THE COURT OF APPEALS WEBSITE), NEED NOT BE PROVIDED IF THE CITATION REFERENCES THE COURT OF APPEALS CASE NUMBER.

(D) – (J) Unchanged.