

E-filing Rules as Michigan Courts Transition to a Statewide E-filing System

Amendments of Administrative Orders:

- 2007-3 – 6th Circuit Court (Oakland County)
- 2010-3 – Oakland Circuit Court (Sixth Circuit Court Family Division)
- 2010-4 – 13th Circuit Court (Antrim, Grand Traverse, and Leelanau Counties)
- 2010-6 – 16th Circuit Court (Macomb County)
- 2011-1 – 3rd Circuit Court (Wayne County)
- 2011-4 – 20th Circuit Court, Ottawa County Probate Court, and 58th District Court (Ottawa County)
- 2011-6 – Oakland County Probate Court (6th Circuit)

Administrative Order No. 2016-XX Proposed Minimum Standards for Appointed Counsel (as submitted by the Michigan Indigent Defense Commission)

To read ADM File No. 2002-37, dated December 23, 2015; and ADM File No. 2015-27, dated January 11, 2016; visit <http://courts.michigan.gov/courts/michigansupremecourt> and click “Administrative Matters & Court Rules” and “Proposed & Recently Adopted Orders on Admin Matters.”

Proposed Amendment of Rule 2.305 of the Michigan Court Rules

On order of the Court, dated December 23, 2015, this is to advise that the Court is considering an amendment of Rule 2.305 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 also will be considered at a public hearing. The notices and agendas for public hearings are posted at Administrative Matters & Court Rules 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 2.305 Subpoena for Taking Deposition

(A) General Provisions.

- (1) Subpoenas shall not be issued except in compliance with MCR 2.306(A)(1). After serving the notice provided for in MCR 2.303(A)(2), 2.306(B), or 2.307(A)(2), a party may have a subpoena issued in the manner provided by MCR 2.506 for the person named or described in the notice. Service on a party or a party's attorney of notice of the taking of the

deposition of a party, or of a director, trustee, officer, or employee of a corporate party, is sufficient to require the appearance of the deponent; a subpoena need not be issued.

(2)–(5) [Unchanged.]

(B)–(F) [Unchanged.]

STAFF COMMENT: This proposal, submitted by the SBM Representative Assembly, would clarify that subpoenas issued for the production of documents may occur only after the defendant has had reasonable time after the complaint is filed and served to obtain an attorney, as described in MCR 2.306(A)(1).

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 sent to the Office of Administrative Counsel in writing or electronically by April 1, 2016, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2014-27. Your comments and the comments of others will be posted under the chapter affected by this proposal at Proposed & Recently Adopted Orders on Admin Matters page.

Proposed Amendments of Rule 2.306 of the Michigan Court Rules

On order of the Court, dated December 23, 2015, this is to advise that the Court is considering amendments of Rule 2.306 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 also will be considered at a public hearing. The notices and agendas for public hearings are posted at Administrative Matters & Court Rules page.

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Rule 2.306 Depositions on Oral Examination

(A)–(B) [Unchanged.]

(C) Conduct of Deposition; Examination and Cross-Examination; Manner of Recording; Objections; Conferring Communicating with Deponent.

(1)–(4) [Unchanged.]

(5) Conferring Communicating with Deponent.

- (a) A person may instruct a deponent not to answer only when necessary to preserve a privilege or other legal protection, to enforce a limitation ordered by the court, or to present a motion under MCR 2.306(D)(1).

(b) A deponent may not ~~confer~~ communicate with another person while a question is pending, except to decide whether to assert a privilege or other legal protection.

(c) For purposes of this rule, “communicate” includes electronic communication conducted by text message, email or other transmission using an electronic device.

(D)–(G) [Unchanged.]

STAFF COMMENT: The proposed amendments of MCR 2.306(C)(5) and (C)(5)(b) would replace references to the word “conferring” or “confer” with “communicating” or “communicate.” The proposed amendment of MCR 2.306(C)(5)(c) would clarify that the term “communicate” would include electronic transmission by text message, email or other electronic manner.

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 sent to the Office of Administrative Counsel in writing or electronically by April 1, 2016, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2014-04. Your comments and the comments of others will be posted under the chapter affected by this proposal at Proposed & Recently Adopted Orders on Admin Matters page.

Proposed Amendment of Rule 2.403 of the Michigan Court Rules

On order of the Court, dated December 23, 2015, this is to advise that the Court is considering an amendment of Rule 2.403 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 also will be considered at a public hearing. The notices and agendas for public hearings are posted at Administrative Matters & Court Rules 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 2.403 Case Evaluation

(A)–(F) [Unchanged.]

(G) Scheduling Case Evaluation Hearing.

- (1) The ADR clerk shall set a time and place for the hearing and send notice to the case evaluators and the attorneys at least 42 days before the date set. The notice shall also contain the names of the case evaluators. If, for any reason, the ADR clerk appoints a replacement case evaluator after the date the notice is sent, then the ADR clerk shall send an

amended notice to the case evaluators and the attorneys, including the name of the replacement evaluator, within a reasonable time but in any event at least two business days before the hearing, to allow the ADR clerk to reschedule or otherwise revise the scheduled case evaluation hearing to address any issue related to disqualification. If, prior to the hearing, the ADR clerk determines that the amended notice was not sent at least two business days before the hearing, the ADR clerk shall adjourn the hearing unless the parties stipulate to proceed with the scheduled case evaluation.

(2) [Unchanged.]

(H)–(O) [Unchanged.]

STAFF COMMENT: The proposed amendments of MCR 2.403 would require the ADR clerk to notify counsel of the scheduled case evaluation panelists when sending the initial notice of case evaluation. Further, the proposal would require the ADR clerk to send notice of replacement evaluators no later than two business days before the hearing. If notice is not sent in that time, the hearing would be adjourned or the parties could stipulate to proceed.

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 sent to the Office of Administrative Counsel in writing or electronically by April 1, 2016, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2014-28. Your comments and the comments of others will be posted under the chapter affected by this proposal at Proposed & Recently Adopted Orders on Admin Matters page.

Proposed Amendment of Rule 3.211 of the Michigan Court Rules

On order of the Court, dated January 6, 2016, the proposed amendment of Rule 3.211 of the Michigan Court Rules having been published for comment at 497 Mich 1218–1219 (2014), and an opportunity having been provided for comment in writing and at a public hearing, the Court declines to adopt the proposed amendment. This administrative file is closed without further action.

Proposed Amendment of Rule 6 of the Rules for the Board of Law Examiners

On order of the Court, dated December 23, 2015, this is to advise that the Court is considering an amendment of Rule 6 of the Rules for the Board of Law Examiners. 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 also will be considered at a public hearing. The notices and agendas for public hearings are posted at Administrative Matters & Court Rules 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.

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Rule 6 Fees

The fees are: an application for examination, ~~\$400~~\$340 and an additional fee for the late filing of an application or transfer of an application for examination, \$100; an application for reexamination, ~~\$300~~\$240; an application for recertification, ~~\$300~~\$200; an application for admission without examination, ~~\$800~~\$600 plus the requisite fee for the National Conference of Bar Examiners' character report. Certified checks or money orders must be payable to the State of Michigan. Online bar examination payments for first time exam takers must be paid by credit card.

STAFF COMMENT: The proposed order increases the fees for application for the bar examination from \$340 to \$400, reexamination from \$240 to \$300, application for recertification from \$200 to \$300, and application for admission without examination from \$600 to \$800.

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 sent to the Office of Administrative Counsel in writing or electronically by April 1, 2016, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2015-23. Your comments and the comments of others will be posted under the chapter affected by this proposal at Proposed & Recently Adopted Orders on Admin Matters page.

Supreme Court Appointments to the Attorney Discipline Board

On order of the Court, dated January 14, 2016, pursuant to MCR 9.110, Louann Van Der Wiele continues to serve as an attorney member of the Attorney Discipline Board for a term ending October 1, 2018. Jonathan E. Lauderbach is appointed as an attorney member of the board and Barbara Williams Forney is appointed as a layperson member of the board for terms ending October 1, 2018.

Louann Van Der Wiele is appointed chairperson of the board and Lawrence G. Campbell is reappointed vice-chairperson of the board for terms ending October 1, 2016.

Supreme Court Appointments to the Attorney Grievance Commission

On order of the Court, dated January 14, 2016, pursuant to MCR 9.108, Valerie R. White continues to serve as an attorney member of the Attorney Grievance Commission for a term ending October 1, 2018. Kenyetta N. Stanford is appointed as an attorney member of the commission and Cathy Joan Pietrofesa, Ph.D., is appointed as a layperson member of the commission for terms ending October 1, 2018.

Barbara B. Smith is reappointed chairperson of the commission and Charles S. Kennedy III is reappointed vice-chairperson of the commission for terms ending October 1, 2016.

Supreme Court Appointments to the Foreign Language Board of Review

On order of the Court, dated January 14, 2016, pursuant to MCR 8.127, Susan E. Reed is appointed to continue service as an LEP Population Advocate on the Foreign Language Board of Review for a term ending December 31, 2018. In addition, the following persons are appointed to the Foreign Language Board of Review for terms beginning January 1, 2016, and ending December 31, 2018:

The Honorable Thomas K. Byerley (Probate Judge)
Melanie L. B. Wandji (Family Law Attorney)



community service

access to justice

pro bono

