

### Proposed Amendment of Rule 2.002 of the Michigan Court Rules

To read ADM File Nos. 2002-37 and 2018-20, dated June 13, 2018; visit <http://courts.michigan.gov/courts/michigan-supremecourt> and click “Administrative Matters & Court Rules” and “Proposed & Recently Adopted Orders on Admin Matters.”

### Proposed Amendment of Canon 7 of the Michigan Code of Judicial Conduct (Dated June 13, 2018)

On order of the Court, this is to advise that the Court is considering an amendment of Canon 7 of the Michigan Code of Judicial Conduct. 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.]

Canon 7.

A Judge or a Candidate for Judicial Office Should Refrain from Political Activity Inappropriate to Judicial Office

A. [Unchanged.]

B. Campaign Conduct:

(1) [Unchanged.]

(2) These provisions govern a candidate, including an incumbent judge, for a judicial office:

(a) [Unchanged.]

(b) A candidate may establish committees of responsible persons to secure and manage the expenditure of funds for the campaign and to obtain public statements of support (including support from lawyers) for the candidacy.

(c) Such committees may solicit and accept ~~are prohibited from soliciting~~ campaign contributions from the public, including lawyers, as permitted by law ~~in excess of \$100 per lawyer, but may solicit public support from lawyers. It is not a violation of this provision for a committee, in undertaking solicitations that are not directed exclusively to lawyers but may in fact go to lawyers who are members of a group or found on a mailing list, to solicit more than \$100 per person, provided that the following disclaimer appears on the letter or on a response card, in print that is at least the same size as the remainder of the print in the letter or the response card:~~

~~“Canon 7 of the Michigan Code of Judicial Conduct prohibits a judicial campaign committee from soliciting more than \$100 per lawyer. If you are a lawyer, please regard this as informative and not a solicitation for more than \$100.”~~

(d) [Unchanged.]

STAFF COMMENT: The proposed amendment of Canon 7 of the Code of Judicial Conduct would explicitly allow judicial campaign solicitation as permitted by law, eliminate the \$100 per lawyer limitation, and remove the disclaimer requirement. This change would bring Michigan’s canons into conformity with the majority of states that have moved away from solicitation restrictions and instead opted to refer to statutory campaign provisions.

The staff comment is not an authoritative construction by the Court. In addition, adoption of an 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 Supreme Court Clerk in writing or electronically by October 1, 2018, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2017-15. 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.

### Amendment of Rule 7.212 of the Michigan Court Rules (Dated June 14, 2018)

On order of the Court, notice of the proposed changes and an opportunity for comment having been provided, and consideration having been given to the comments received, the following amendment of Rule 7.212 of the Michigan Court Rules is adopted, effective September 1, 2018.

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

Rule 7.212 Briefs

(A)–(B) [Unchanged.]

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

(1)–(7) [Unchanged.]

(8) The relief, stating in a distinct, concluding section the order or judgment requested; and

(9) A signature; and

(10) A separately filed appendix, only as provided in section (J) of this rule.

(D)–(I) [Unchanged.]

(J) Appendix.

(1) In all civil cases (except those pertaining to child protection proceedings, including termination of parental rights, and non-criminal delinquency proceedings under chapter XIII of the Probate Code and adoptions under chapter X),

and in all appeals from administrative agencies, except those described in section (J)(5) of this rule, the appellant shall file and serve an appendix. The appellant's appendix shall contain a table of contents and copies of the following documents if they exist:

- (a) The judgment or order(s) appealed from, including any written opinion, memorandum, findings of fact and conclusions of law stated on the record, in conjunction with the judgment or order(s) appealed from;
  - (b) A copy of the trial court docket sheet;
  - (c) The relevant pages of any transcripts cited in support of the appellant's position on appeal. Where appropriate, the appellant may attach pages preceding and succeeding the page cited if helpful to provide context to the citation. If a complete trial, deposition, or administrative transcript is filed, the index to such transcript must be included. Only non-compressed (one sheet to a page) transcripts may be filed;
  - (d) If a jury instruction is challenged, a copy of the instruction, any portion of the transcript containing a discussion of the instruction, and any relevant request for the instruction; and
  - (e) Any other exhibit, pleading, or other evidence that was submitted to the trial court and that is relevant and necessary for the Court to consider in deciding the appeal. Briefs submitted in the trial court are not required to be included in the appendix unless they pertain to a contested preservation issue.

For material that is subject to an existing protective order, or for evidence that is not subject to such an order, but which contains information that is confidential or privileged, the procedures of MCR 7.211(C)(9) apply.
- (2) The appellee shall file and serve an appendix with its responsive brief only if the appellant's appendix does not contain all the information set forth in section (J)(1) of this rule. The appellee's appendix shall not contain any of the documents contained in the appellant's appendix, but shall only contain additional information described in section (J)(1) that is relevant and necessary to the determination of the issues raised in the appeal.
  - (3) Each volume of any appendix shall contain no more than 250 pages. The table of contents shall identify each document with reasonable definiteness, and indicate the volume and page of the appendix where the document is located. The cover to the appendix shall indicate in bold

type whether it is the "Appellant's Appendix" or "Appellee's Appendix."

- (a) For a paper appendix, each document shall also be tabbed. A paper appendix shall be bound separate from the brief. Five copies of the paper appendix shall be filed with the court.
- (b) If an appendix is to be filed electronically, it must be filed as an independent .pdf file or a series of independent .pdf files. The table of contents for electronically filed appendixes shall contain bookmarks, linking to each document in the appendix.
- (4) In cases involving more than one appellant or appellee, including cases consolidated for appeal, to avoid duplication each side shall, where practicable, file a joint rather than separate appendixes.
- (5) This subsection does not apply to appeals arising from the Michigan Public Service Commission (in which the record is available on the Commission's e-docket) or the Michigan Tax Tribunal (in which the record is available on the Tribunal's tax docket lookup page). In those cases, the parties shall cite to the document number and relevant pages.

STAFF COMMENT: The amendment of MCR 7.212 requires an appellant to file an appendix with specific documents when filing the appellant's and/or appellee's principal brief or responsive brief. The amendment is intended to identify for practitioners the key portions of the record that the Court deems necessary for thorough and efficient review of the issues on appeal.

The staff comment is not an authoritative construction by the Court. In addition, adoption of an amendment in no way reflects a substantive determination by this Court.

### Appointment of Chief Judge of the Isabella County Trial Court (Dated June 22, 2018)

On order of the Court, effective immediately, the Honorable Eric Janes is appointed chief judge of the Isabella County Trial Court for the remainder of a term ending December 31, 2019.

### Assignment of Business Court Judge in the Berrien County Trial Court (Dated June 13, 2018)

On order of the Court, effective June 30, 2018, the Honorable Donna B. Howard is assigned to serve in the role of business court judge in the Berrien County Trial Court for the remainder of a six-year term expiring April 1, 2019.