

Special Administrative Inquiry Regarding Questions Relating to Mental Health on the Michigan Bar Examination Application

Proposed Amendment of Rule 7.312 of the Michigan Court Rules

To read ADM File No. 2016-46, dated January 23, 2019; and ADM File No. 2018-25, dated February 13, 2019; visit <http://courts.michigan.gov/courts/michigansupremecourt> and click “Administrative Matters & Court Rules” and “Proposed & Recently Adopted Orders on Admin Matters.”

Amendment of Administrative Order No. 2014-12

(Dated February 1, 2019)

On order of the Court, effective immediately, Administrative Order No. 2014-12, the order that established the Michigan Tribal State Federal Judicial Forum, is amended to add a new federal member with a term ending July 1, 2022:

- **Magistrate Judge Patricia T. Morris**
(U.S. District Court, Eastern District of Michigan)

Amendment of Rule 2.002 of the Michigan Court Rules

(Dated January 23, 2019)

On order of the Court, the following amendment is adopted, effective immediately.

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

Rule 2.002 Waiver of Fees for Indigent Persons

(A) Applicability and Scope.

- (1) [Unchanged.]
- (2) Except as provided in subrule (H), for the purpose of this rule “fees” applies only to fees required by MCL 600.857, MCL 600.880, MCL 600.880a, MCL 600.880b, MCL 600.880c, MCL 600.1027, MCL 600.1986, MCL 600.2529, MCL 600.5756, MCL 600.8371, MCL 600.8420, MCL 700.2517, MCL 700.5104, and MCL 722.717.
- (3) [Unchanged.]
- (4) If fees are waived under this rule before judgment, the waiver continues through the date of judgment unless ordered otherwise under subrule (H). If fees are waived under this rule postjudgment, the waiver continues through the date of adjudication of the postjudgment proceedings. If jurisdiction of the case is transferred to another court, ~~the order granting~~ the waiver continues in the receiving court according to this rule unless ordered otherwise by the receiving court under subrule (H). If an interlocutory appeal is filed in another court, ~~the order granting~~ the waiver continues in the appellate court.

(5) If the case is appealed, ~~the order granting~~ the waiver is void in the appellate court. A request to waive appellate filing fees may be filed in the appellate court in accordance with this rule.

- (B) Request for Waiver of Fees. A request to waive fees must accompany the documents the individual is filing with the court. The request must be on a form approved by the State Court Administrative Office entitled “Fee Waiver Request.” Except as provided in (JK), no additional documentation may be required. The information contained on the form shall be nonpublic. The request must be verified in accordance with MCR 1.109(D)(3)(b) and may be signed either
 - (1)–(2) [Unchanged.]
- (C) Persons Receiving Public Assistance. If a party shows that he or she is receiving any form of means-tested public assistance, the clerk of the court must waive payment of fees as to that party on a form approved by the State Court Administrative Office ~~shall be waived~~. For purposes of this rule, means-tested public assistance includes but is not limited to:
 - (1)–(2) [Unchanged.]
 - (3) ~~Family~~Financial Independence Program through the State of Michigan;
 - (4)–(6) [Unchanged.]

The clerk of the court ~~shall certify the waiver on a form approved by the State Court Administrative Office and shall send~~ must provide a copy of the signed waiver of fees to the individual. The waiver shall be nonpublic.

- (D) Representation by a Legal Services Program. If a party is represented by a legal services program that is a grantee of the federal Legal Services Corporation or the Michigan State Bar Foundation, or by a law school clinic that provides services on the basis of indigence, the clerk of the court must waive payment of fees as to that party ~~shall be waived on a form approved by the State Court Administrative Office.~~

The clerk of the court ~~shall certify the waiver on a form approved by the State Court Administrative Office and shall send~~ must provide a copy of the signed waiver of fees to the individual. The waiver shall be nonpublic.

- (E) If the clerk of the court is unable to waive fees under (C) or (D), the clerk shall immediately submit the request for judicial review.
- (EF) Other Indigent Individuals. If an individual shows that he or she is unable because of indigence to pay fees, the court shall order those fees waived. ~~For purposes of this rule, The court must waive fees when the individual lives~~ indigence is defined as living in a household whose with gross household income is under 125% of the federal poverty level guidelines. The court must also waive fees when gross household income is above 125% of the federal poverty guidelines if the payment of fees would constitute a financial hardship on the individual.
- (FG) ~~Denial of a Request to Waive Fees~~ Order Regarding a Request to Waive Fees. A judge shall enter an order either granting or denying ~~the request~~ a request made under (E) or (F) within

three business days and such order shall be nonpublic. If required financial information is not provided in the waiver request, the judge may deny the waiver. An order denying shall indicate the reason for denial. The order granting a request must include a statement that the person for whom fees are waived is required to notify the court when the reason for waiver no longer exists.

(1) [Unchanged.]

(2) De Novo Review of ~~Order Denying Waiver~~ Fee Waiver Denials.

(a) Request for De Novo Review. If the court denies a request for fee waiver, the individual may file a request for de novo review within 14 days of the ~~date of entry of the order~~ notice denying the waiver. There is no motion fee for the request. A request for de novo review automatically stays the case or preserves the filing date until the review is decided. A de novo review must be held within 14 days of receiving the request.

(b)–(c) [Unchanged.]

(GH) Domestic Relations Cases; Payment of Fees by Spouse. If a party entitled to relief in an action for divorce, separate maintenance, annulment, or affirmation of marriage is qualified for waiver of filing fees under subrule (C), (D), or ~~(E)~~ and is also entitled to an order requiring the other party to pay attorney fees, the court shall order waiver of payment of those fees and shall require the other party to pay them, unless the other party is also qualified to have filing fees waived under subrule (C) or (D) or ~~(E)~~.

(H)–(J) [Relettered (I)–(K) but otherwise unchanged.]

STAFF COMMENT: This order makes corrections and technical changes to the rule and clarifies the existing language. The changes were recommended by the State Bar of Michigan workgroup on consistent fee waivers.

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

Supreme Court Appointment to the Attorney Grievance Commission (Dated January 16, 2019)

On order of the Court, pursuant to MCR 9.108, Mary Chartier-Mittendorf is appointed to the Attorney Grievance Commission, effective immediately, for the remainder of a term ending October 1, 2019.

Appointment of Chief Judge of the Cheboygan County Probate Court (Dated January 16, 2019)

On order of the Court, effective immediately, the Honorable Daryl P. Vizina is appointed chief judge of the Cheboygan County Probate Court for the remainder of a term ending December 31, 2019.

Appointment of Chief Judge of the 53rd Circuit Court (Cheboygan and Presque Isle Counties)

(Dated January 16, 2019)

On order of the Court, effective immediately, the Honorable Aaron J. Gauthier is appointed chief judge of the 53rd Circuit Court for the remainder of a term ending December 31, 2019.

Appointment of Chief Judge of the Iron County Trial Court (Dated January 16, 2019)

On order of the Court, effective immediately, the Honorable Donald S. Powell is appointed chief judge of the Iron County Trial Court for the remainder of a term ending December 31, 2019.

Appointment of Chief Judge of the Leelanau County Probate Court (Dated January 16, 2019)

On order of the Court, effective immediately, the Honorable Marian Kromkowski is appointed chief judge of the Leelanau County Probate Court for the remainder of a term ending December 31, 2019.

Appointment of Chief Judge of the Presque Isle County Probate Court (Dated January 16, 2019)

On order of the Court, effective immediately, the Honorable Erik J. Stone is appointed chief judge of the Presque Isle County Probate Court for the remainder of a term ending December 31, 2019.

Assignment of Business Court Judge in the 44th Circuit Court (Livingston County) (Dated January 16, 2019)

On order of the Court, effective immediately, the Honorable Michael P. Hatty is assigned to serve in the role of business court judge in the 44th Circuit Court, for a term expiring April 1, 2019.