

February 1, 2022

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

RE: ADM File No. 2019-16 – Proposed Amendment of Rule 7.212 of the Michigan Court Rules

Dear Clerk Royster:

At its January 21, 2022 meeting, the Board of Commissioners of the State Bar of Michigan considered ADM File No. 2019-16 concerning the proposed amendment of Rule 7.212. In its review, the Board considered recommendations from the Civil Procedure & Courts Committee, Criminal Jurisprudence & Practice Committee, Appellate Practice Section, Criminal Law Section, and Family Law Section.

The Board voted unanimously to support the proposed amendment. As many of the Bar's committees and sections that submitted recommendations to the Board on this matter provided insights on the proposal that are unique to their various areas of practice and expertise, the Board further authorized committees and sections to submit their positions to the Court for consideration. Enclosed with this letter are the comments from the Civil Procedure & Courts Committee and Criminal Jurisprudence & Practice Committee. Sections will submit their comments to the Court separately.

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

Sincerely,



Janet K. Welch
Executive Director

cc: Sarah Roth, Administrative Counsel, Michigan Supreme Court
 Dana M. Warnez, President

Public Policy Position**ADM File No. 2019-16**

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 on this matter is to support ADM File No. 2019-16 and to authorize the Committee to submit its position.

The Civil Procedure & Courts Committee has a public policy decision-making body with 34 members. On January 8, 2022, the Committee adopted its position after a discussion and vote at a scheduled meeting. 23 members voted in favor of the Committee's position, 0 members voted against this position, 1 member abstained, 8 members did not vote due to absence.

Support**Explanation:**

The Committee voted to support proposed amendment of MCR 7.212 and to further recommend that the other components of the pilot program authorized by Administrative Order No. 2019-6 be retained as optional alternatives for brief formatting.

Contact Person:

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**Public Policy Position
ADM File No. 2019-16**

The Criminal Jurisprudence & Practice Committee is comprised of members appointed by the President of the State Bar of Michigan. The position expressed is that of the Criminal Jurisprudence & Practice 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 on this matter is to support ADM File No. 2019-16 and to authorize the Committee to submit its position.

The Criminal Jurisprudence & Practice Committee has a public policy decision-making body with 24 members. On January 7, 2022, the Committee adopted its position after a discussion and vote at a scheduled meeting. 21 members voted in favor of the Committee's position, 0 members voted against this position, 0 members abstained, 3 members did not vote due to absence.

Support with Amendment

Explanation:

The Committee voted to support the proposed amendments of MCR 7.212 with a further amendment to (B)(4) that strikes the "extraordinary and compelling reasons" standard for granting a motion for leave to file a brief in excess of the word or page limitations and replaces it with a good cause standard. While providing clear requirements for the formatting of appellate briefs is important, maintaining meaningful judicial discretion to deviate from these requirements will ensure that briefing parameters may reflect the parties and judiciary's needs in a given case.

Contact Persons:

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