Michigan Supreme Court

Internal Operating Procedures (IOPs)

Subchapter 7.300 Court Rules

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MICHIGAN SUPREME COURT

INTERNAL OPERATING PROCEDURES (IOPs)

Subchapter 7.300

These Internal Operating Procedures (IOPs) are a compilation of the many practices and procedures of the Michigan Supreme Court Clerk's Office that interpret and effectuate subchapter 7.300 of the Michigan Court Rules. The IOPs do not create any obligations on the Court that are enforceable by litigants or the public. To the extent the IOPs conflict or are inconsistent with the subchapter 7.300 rules, the court rules control.

The subchapter 7.300 rules were amended effective September 1, 2015. In addition to numerous substantive changes, the subchapter 7.300 rules were renumbered to be consistent with the numbering scheme of the sub-chapter 7.200 rules that apply to the Court of Appeals. As one example, the former motion practice rule for the Supreme Court was MCR 7.313, while the Court of Appeals rule is MCR 7.211. The amended Supreme Court rule is now MCR 7.311. These IOPs conform to the numbering scheme of the rules they interpret and implement. Thus, IOP 7.311 applies to the court rule regarding motion practice in the Supreme Court. Except where, by

statute or court rule, the Supreme Court operates differently than the Court of Appeals, the Court of Appeals IOPs[1] may be consulted to determine Supreme Court practice and procedure on matters not specifically addressed in these IOPs.

The Clerk's Office continually reviews its practices and procedures to improve the efficient processing of cases. Hence, the IOPs may be revised at any time without prior notice to reflect changes in either the court rules or the evolving practices of the Clerk's Office. Creation or revision dates are noted in brackets following each IOP provision.

Readers are encouraged to share any comments and suggestions on the IOPs to the Clerk of the Court by email at MSC_Clerk@courts.mi.gov or by phone at (517) 373-0120.

MSC IOP 7.301 Organization and Operation of Supreme Court

(A) Chief Justice.

The Chief Justice is selected by a majority vote of all Justices at the first meeting of the Court in odd-numbered years. Unlike the Court of Appeals, the Chief Justice does not select a Chief Justice Pro Tempore. Among other administrative duties, the Chief Justice sets the schedules for case calls and conferences, approves the agendas of cases to be discussed at conference, and issues administrative orders on certain motions (e.g., to extend time for filing, to exceed page limitations, to file amicus curiae briefs). [3/2017]

(B) Term and Sessions.

The Court's "term" runs from August 1 through July 31. The end of the term has no effect on pending cases except as provided in MCR 7.313(E). A "session" of the Court refers to the monthly calendar of cases that are argued or submitted on briefs. Cases are generally scheduled for argument at the Hall of Justice in Lansing during the first or second weeks of October, November, December, January, March, April and May. Arguments in the first case of the Court's new session in October are, by tradition, argued in the old Supreme Court courtroom located in the State Capitol Building. Once or twice a year, the Court also sits to hear arguments in a single case at an off-site location as part of the Court Community Connections program. The Supreme Court's website has more information about the Court Community Connections Program.[2] [3/2017]

1. http://courts.mi.gov/Courts/COA/clerksoffice/Documents/COA%20Clerk%20IOPs.pdf

[1] Courtroom. The Supreme Court's courtroom is located on the 6th floor in the Hall of Justice at 925 W. Ottawa Street, Lansing, MI 48915. A map, driving directions, and parking instructions are available on the Court's website.[3] [3/2017]

(C) Supreme Court Clerk.

[1] Location, Office Hours, and Contact Information. The Court Clerk's Office is located on the 4th floor of the Hall of Justice at 925 W. Ottawa Street, Lansing, MI 48915. The office is open from 8:30 a.m. to 5:00 p.m., Monday through Friday, except on Court holidays[4] or when otherwise closed by Court order or because of an emergency. The Clerk's Office phone number is (517) 373-0120 and email address is MSC_-Clerk@courts.mi.gov. [3/2017]

[2] Jurisdictional Review. Applications for leave to appeal are reviewed to determine whether they satisfy the jurisdictional deadlines imposed by MCR 7.305(C). If the application was filed too late, it will not be accepted or assigned a docket number. Applications and original actions are also rejected when they are not permitted by statute or court rule (e.g., a complaint for superintending control when an application for leave to appeal was available, an application directly from a circuit court judgment, and an application from a Judicial Tenure Commission decision to not take disciplinary action against a judge) or if they fail to satisfy the most basic requirements of the court rules (e.g., submitting a single sheet of paper saying the party appeals a judgment or order of the Court of Appeals but does not specify the issue(s), contain any facts or argument, and provide a proof of service). A document cannot be submitted as a "placeholder" to satisfy the jurisdictional deadline with the intent of complying with the court rules requirements at a later date. The Clerk's Office will return a rejected pleading that is filed in hard copy to the filer whenever practicable. [3/2017]

2. http://courts.mi.gov/courts/michigansupremecourt/publicinfoofice/publicoutreach/Pages/default.aspx

3. http://courts.mi.gov/education/Pages/driving-directions.aspx

4. Court holidays include the following: New Year's Day (January 1); Martin Luther King, Jr., Day (the third Monday in January in conjunction with the federal holiday); Presidents' Day (the third Monday in February); Memorial Day (the last Monday in May); Independence Day (July 4); Labor Day (the first Monday in September); Veterans' Day (November 11); Thanksgiving Day (the fourth Thursday in November); Friday after Thanksgiving; Christmas Eve (December 24); Christmas Day (December 25); New Year's Eve (December 31). MCR 8.110(D)(2).

[3] Filing Date. With one limited exception (see the "prison mailbox rule," IOP 7.305(C)[4][b]), applications that are not received by the Clerk's Office by the filing due date—even if late by one day—cannot be accepted for filing. MCR 7.305(C)(4). For the rules regarding electronic filing with TrueFiling, see IOP 7.305(C)(6). [3/2017]

[4] Assignment of Docket Number. Timely filed applications and original actions are assigned six-digit docket numbers and are reviewed for conformity with the court rules, including proper proof of service. The assignment of a docket number does not mean the filing was found to conform to the court rules or that it satisfies all jurisdictional requirements. Rather, the assignment of a docket number simply facilitates the efficient and accurate handling of the filed materials by the Clerk's Office. If the filing is deficient, the filer will be notified by the Clerk's Office and given a certain amount of time to correct non-jurisdictional defects. [3/2017]

(D) Deputy Supreme Court Clerk.

The Deputy Clerk is primarily responsible for (1) reviewing new filings for jurisdiction and conformity with the court rules, (2) docketing new applications, motions, briefs and correspondence, and (3) responding to inquiries about pending cases and Court practices and procedures. [3/2017]

(E) Reporter of Decisions.

The Reporter's Office is responsible for editing the draft opinions of the Supreme Court prior to their release and the opinions of the Court of Appeals after their release. The Reporter's Office staff also prepares the syllabi of the Supreme Court opinions that include brief recitations of the pertinent facts, headnotes of the legal holdings, and statements of the dispositions. Opinions of both Courts are published in advance sheets as soon as practicable. MCR 7.301(E)(3). Bound volumes are published as soon as practicable after issuance of the last opinion to be included in the volume. MCR 7.301(E)(4). [3/2017]

[1] Michigan Appellate Opinion Manual. The Court currently uses, and encourages others to use, the Michigan Appellate Opinion Manual,[5] which was prepared and is updated by the Reporter's Office. Administrative Order 2014-12. The manual sets forth the standards for style, structure, format, quotations, citations of authority, abbreviations and preferred word usages that are utilized in the opinions of the Supreme Court and the

5. http://courts.mi.gov/Courts/MichiganSupremeCourt/Documents/MiAppOpManual.pdf

Court of Appeals. The manual is a valuable reference source for practitioners in preparing applications, answers, motions, and briefs. The manual can be accessed via a link in the right-hand navigation frame on the Supreme Court's homepage.[6] [3/2017]

[2] Online Court Rules, Rules of Evidence, Administrative Orders, etc. The Reporter's Office is responsible for maintaining and updating the online court rules, rules of evidence, administrative orders, ethical rules, state bar rules, etc., as they are proposed, adopted, or amended by the Supreme Court. The existing rules and orders can be accessed on the Admin Matters & Court Rules web page[7] of the One Court of Justice website. The Proposed & Recently Adopted Orders on Admin Matters web page[8] contains proposed amendments being considered by the Supreme Court as well as rules and orders that were recently adopted. [3/2017]

(F) Supreme Court Crier.

The Crier's most visible role is to serve as bailiff in opening and closing all official sessions of the Court, e.g., case call, public hearings, and portrait dedications. The Crier's Office, which is located in the Hall of Justice, also provides essential support to almost every operation of the Court, such as copying and distributing briefs in cases being argued, ordering supplies, maintaining equipment and furniture, setting up for special events, etc. The Crier's Office also prints documents for the State Court Administrative Office and the Court of Appeals. [3/2017]

MSC IOP 7.303 Jurisdiction of the Supreme Court

(A) Mandatory Review.

The Court's review of Judicial Tenure Commission (JTC) disciplinary orders is mandatory. Nevertheless, most appeals of JTC disciplinary orders are decided by order of the Court without oral argument. The Supreme Court reviews a respondent judge's petition to reject or modify the JTC's disciplinary recommendation. If the respondent judge does not file a petition, the Court reviews the JTC's recommendation on the record filed to deter-

6. http://courts.mi.gov/courts/michigansupremecourt/pages/default.aspx

7. http://courts.mi.gov/courts/michigansupremecourt/rules/pages/current-court-rules.aspx

8. http://courts.mi.gov/courts/michigansupremecourt/rules/court-rules-admin-matters/pages/default.aspx

mine if the recommended discipline is appropriate. Because it would be beyond the scope of the Court's review of a JTC disciplinary order, the Clerk's Office cannot accept a petition from someone seeking to compel the JTC to conduct an investigation of, or impose discipline on, a judge. See MCR 9.224; 1963 Const, art VI, § 30. [3/2017]

(B) Discretionary Review.

The Court's review of all other case types is discretionary, meaning the Court may choose whether to conduct a plenary review of the case and issue a decision on the merits. The vast majority of discretionary review cases—over 97%—are filed as applications for leave to appeal. [3/2017]

MSC IOP 7.305 Application for Leave to Appeal

(A) What to File.

Filing requirements for an application: 4 copies (1 with original signature) unless e-filed, $375 entry fee unless waived by court rule or statute or accompanied by motion to waive, and proof of service.

[1] Number of copies. If filing in hard copy, you must submit four copies (one with original signature) of the application. If you electronically file the application, you do not need to also provide hard copies. Admin Order 2014-23(II)(A).[9] [3/2017]

[2] Signature requirement. A written signature is "the proper handwriting of the person or, if the person is unable to write, the person's proper mark, which may be, unless otherwise expressly prohibited by law, a clear and classifiable fingerprint of the person made with ink or another substance," MCL 8.3q, while an electronic signature is "an electronic sound, symbol, or process, attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record," MCR 1.109(D)(2). The signature requirement for an e-filed or e-served document is typically satisfied by a typed signature with "/s/ [Name]" or a graphic image of a handwritten signature. Admin Order 2014-23(III)(A). If a document is submitted without a signature or with a symbol that cannot reasonably be construed as a signature, the Clerk's Office will send a defect letter to the filer advising him or her to submit a corrected signature page within a specific period of time. [3/2017]

[3] Binding hard copy applications, answers, and replies. If filing hard copies, you may use whatever binding method is most appropriate for the document's size, except you should not use plastic covers, ring binders, or

9. http://courts.mi.gov/Courts/MichiganSupremeCourt/rules/court-rules-admin-matters/Adopted/2002-37_2014-11-26_formatted%20order_AO%202014-23.pdf#search="Admin Order 2014-23(II)(A)"

folders. Also, because the Clerk's Office needs to scan the original document before placing it in the Court's file, it should not be stapled or edge-bound; the preferred binding method is either Acco® fasteners (i.e., two-hole punched) or binder clips along the top edge. The original set of appendixes should be identified and separated by bottom tabs or title sheets to facilitate scanning. [3/2017]

[4] Electronic filing. The Clerk's Office strongly encourages the filing of applications through TrueFiling,[10] the e-filing system that serves both the Supreme Court and the Court of Appeals. Attachments should be combined into a single file whenever practicable and added as a "connected document" to the primary document (i.e., the application). TrueFiling limits the size of any single file being uploaded to 25 MB so if the combined documents exceed that file size, it may be split into two or more files. For ease of use, e-filed documents may include bookmarks and internal links. Scanned documents should be at a high resolution and made searchable through character recognition. Additional information and instructional guides for e-filing are available on the Court's e-filing webpage.[11] [3/2017]

[5] Page limitation and motion to exceed. An application for leave to appeal is limited to 50 pages, exclusive of tables, indexes, and appendixes. MCR 7.305(A)(1), referencing MCR 7.212(B). A motion to exceed the page limit should be filed with the application on or before the application's due date. If the motion is denied, you will usually be given 14 or 21 days to submit a conforming brief within the page limitation. Generally, if the Court of Appeals granted a motion to exceed the page limit of the application or brief filed in that court, the Supreme Court will grant a motion for an equal number of pages. Factual statements or legal arguments contained in an appendix or other document that are incorporated by reference in the application *will be* counted toward the page limitation. [3/2017]

[6] Notice of Hearing. The court rules in effect prior to September 1, 2015, required the appellant to file a notice of hearing stating that the application would be submitted for a decision on the first Tuesday at least 21 days after its filing. Essentially, the notice of hearing established the date on which the appellee's answer would be due. Under the amended subchapter 7.300 rules, the appellant is no longer required to file a notice of hearing. Instead, MCR 7.305(D) itself establishes the due date of the answer, i.e., within 28 days after service of the application. If additional time is

10. https://www.truefiling.com.

11. http://courts.mi.gov/opinions_orders/e-filing/pages/default.aspx.

required for submitting an answer, the appellee must file a motion for an extension. [3/2017]

[7] Proof of service. An application will be docketed but will not be presented to the Justices for a decision until the filer has provided a proof of service showing that the application was served on all other parties. If the proof of service is not submitted with the application, the Clerk's Office will send a letter to the filer saying that a proof of service must be submitted within a certain period of time to avoid having the application administratively dismissed. [3/2017]

[8] Entry fee. An entry fee of $375 is charged to each party appealing a single order or judgment of the Court of Appeals, even when the order or judgment encompasses multiple Court of Appeals or lower court numbers. An entry fee of $375 is also charged to a party who files an application for leave to appeal as cross-appellant from a single order or judgment of the Court of Appeals. Payment of the entry fee is required at the time an application is submitted unless (1) the filing is accompanied by a motion to waive fees, (2) the fee is waived by the Court pursuant to statute or court rule (e.g., a criminal case filed by appointed counsel or the prosecutor, or a termination of parental rights appeal filed by appointed counsel), or (3) payment is deferred pending an interagency transfer of funds. If payment is deficient because of non-sufficient funds or because of a bad credit card, the filer will be sent an invoice for the unpaid balance and will have 14 days to remit full payment. If the document was electronically filed, the invoice will be sent as an email attachment to the filer's TrueFiling email address. The failure to timely pay the fee will result in the case being administratively closed. A motion to waive fees must be accompanied by an affidavit of financial condition reflecting the party's sources and amounts of income and liabilities and expenses. Generally, if the Court of Appeals had waived the party's fees, the Supreme Court will also waive fees. [3/2017]

[a] Multiple applications. Multiple parties may jointly or separately file applications for leave to appeal from a single decision of the Court of Appeals. The Court will charge a $375 fee for each application filed. The applications will be assigned separate docket numbers, although the cases will usually track together to a final decision by the Court. Multiple cross-applications may also be filed and they, too, will be charged separate filing fees. However, cross-applications are docketed as part of the primary appeals and are not assigned separate docket numbers. The Court will not accept a concurrence with a filed application for leave to appeal or a cross-application, but will accept an application that complies with the requirements of MCR 7.305 and contains a statement that the filing party concurs

in the statement of material proceedings and facts and argument sections contained within the filed application. [3/2017]

[b] Payment of fees. If e-filing, all applicable fees will be assessed in TrueFiling and charged to the filer's credit card unless the filer submits a motion to waive fees, is entitled to a fee waiver by statute or court rule, or is a state agency that transfers payment outside the TrueFiling system. Filings sent by mail or presented at the counter should be paid with a check or money order made payable to the "State of Michigan." Filings at the counter can also be paid using a credit card. [3/2017]

[c] Civil applications by prisoners. MCL 600.2963 precludes the Supreme Court from granting a fee waiver in a civil application for leave to appeal filed by an indigent prisoner, although the prisoner may not have to pay the full filing fee upfront. The Clerk's Office will apply a formula based on the average monthly deposits and withdrawals from the prisoner's account to determine the amount, if any, of an initial partial fee that is owed. The prisoner must pay that partial fee and submit a written acknowledgment of responsibility to pay the full fee, which will be collected incrementally from the prisoner's account, to avoid having the application dismissed by an administrative order. The statute also precludes a prisoner from filing a new civil case if he or she still owes fees from a prior case filed in the Supreme Court. [3/2017]

[9] Amicus Curiae Briefs. The Court not only permits the filing of amicus briefs at the application stage but encourages it. Because it cannot be known with certainty when the Court will act on an application, interested persons or organizations should file the amicus brief—whether in support of or opposition to the application—as soon as possible. A motion to file the amicus brief must be filed with the brief unless the person or organization has a right to participate as an amicus under MCR 7.312(H)(2). [3/2017]

(B) Grounds.

The Supreme Court is not an "error correcting" court. Rather, the Court seeks to address legal issues of jurisprudential significance that will impact a larger group of current or future cases. [3/2017]

[1] Grounds generally. An application for leave to appeal must establish that the case is deserving of the Court's consideration by showing that the issue (1) involves a substantial question regarding the validity of a legislative act, (2) has significant public interest *and* is filed by or against the state, one of its agencies or subdivisions, or an officer thereof in his or her official capacity, or (3) involves a legal principle of major significance to the state's jurisprudence. [3/2017]

[2] Before Court of Appeals decision. In addition to setting forth the general grounds required of a leave application, an application filed before the Court of Appeals decision must establish that the delay in obtaining a final decision will likely cause substantial harm or the application is from a ruling that invalidates a provision of the state constitution, a statute, an administrative rule or regulation, or other action of the executive or legislative branches. [3/2017]

[3] Attorney Discipline Board (ADB) appeal. The application must show that the ADB's decision is clearly erroneous and will cause material injustice. [3/2017]

(C) When to File.

The Michigan Court Rules of 1985 usually provide for time periods that are multiples of seven days. The intent is that the due date for a filing will be on the same day of the week as the event that commenced the period for filing. For example, an application for leave to appeal in a civil case from a Court of Appeals decision rendered on a Monday is due on the sixth Monday (42 days) thereafter. If the Supreme Court is closed on that sixth Monday because of a holiday, the application would be due the next business day. [3/2017]

Applications are due within 42 days after the claim, application, or original action is filed in the COA or within 42 days after the COA grants an application.

[1] Before the Court of Appeals decision. An application for leave to appeal with the Supreme Court may be filed within 42 days of the following actions in the Court of Appeals: (1) the filing of a claim of appeal, an application for leave to appeal, or an original action; or (2) entry of an order granting an application for leave to appeal. The Supreme Court generally disfavors applications for leave to appeal that are filed before the Court of Appeals renders its decisions. Such applications will be granted only in cases presenting questions of the highest public importance when the need for emergency action is evident. One area where the Court has encouraged the filing of applications prior to the Court of Appeals decisions is election disputes when the time for a final decision on the matter is very short. See *Scott v Michigan Director of Elections*, 490 Mich 888; 804 NW2d 119 (2011). [3/2017]

Criminal applications are due within 56 days, civil applications within 42 days, and termination of parental rights applications within 28 days after the COA decision.

[2] After the Court of Appeals decision. An application for leave to appeal with the Supreme Court must be filed within 56 days in criminal cases, 42 days in civil cases, and 28 days in cases involving the termination of parental rights from the date of the Court of Appeals (1) dispositional opinion or order, including one that remands to the trial court or tribunal, (2) order denying a timely filed motion for reconsideration, (3) order granting publication of a dispositional opinion, including one that remands to the trial court or tribunal, in a case that was originally released as unpublished, or (4) opinion or order disposing of the case following the remand procedure. MCR 7.305(C)(2) and (5). [3/2017]

[3] ADB appeal. The application for leave to appeal must be filed within the time provided in MCR 9.122(A)(1). [3/2017]

Late applications cannot be accepted by the Clerk's Office except when the "prison mailbox rule" applies.

[4] Late Application. The Clerk's Office strictly enforces the time limitations for filing applications for leave to appeal. Late filings are returned, if practicable, to the filer without being docketed. Further, the Court will not accept a motion to extend the time for filing an application for leave to appeal, MCR 7.316(B). [3/2017]

[a] Definition of Filing. "Filing" means the actual receipt by the Clerk's Office of the pleadings. The mailing of hard copy documents or their presentation to a courier does not constitute filing, except as allowed by the "prison mailbox rule" (see *infra*). Whenever a due date falls on a legal holiday, the filing, whether by hard copy or electronically, must be received by the close of the next business day. [3/2017]

[b] "Prison Mailbox Rule." An exception to the rule that a document is not filed until actually received by the Clerk's Office is called the "prison mailbox rule." MCR 7.305(C)(4). For a prisoner who is housed in a Michigan, federal, or other state correctional facility and is acting pro se in a criminal case, the application for leave to appeal will be considered filed on the date it was deposited with first-class prepaid postage in the outgoing mail at the correctional facility where the prisoner is housed. The "prison mail box" rule applies only to criminal applications for leave to appeal, not to civil appeals and not to other documents that might be filed in a criminal case, such as briefs or motions. [3/2017]

[c] Expedited postal delivery. Guaranteed overnight delivery by the U.S. Postal Service does not necessarily mean the Supreme Court will receive the pleading by the next day. Letters and packages that are mailed to the Supreme Court and other state agencies are delivered to the Michigan Department of Technology, Management and Budget Mail and Delivery Services where they are sorted and later transported to the recipient agencies. Depending on when Mail and Delivery Services receives the letter or

package, it may not be transported to the recipient agency until the next day. Thus, guaranteed overnight delivery might result in a document being received by Mail and Delivery Services on its due date, but not necessarily the Supreme Court Clerk's Office. [3/2017]

[5] Court of Appeals Remand Decisions. The filing of an application for leave to appeal in the Supreme Court from a Court of Appeals decision under MCR 7.215(E)(1) that remands to the trial court or tribunal has the effect of *staying* the remand proceedings unless otherwise ordered by the Supreme Court or Court of Appeals. MCR 7.305(C)(6)(a). An application from a Court of Appeals decision other than under MCR 7.215(E)(1) *does not stay* the remand proceedings unless so ordered by the Supreme Court or Court of Appeals. MCR 7.305(C)(6)(b). An application for leave to appeal from the Court of Appeals decision after remand may raise issues initially asserted in the Court of Appeals as well as issues arising from the remand proceedings. MCR 7.305(C)(5)(c). If the Court of Appeals denied a motion to remand, the application filed with the Supreme Court from the Court of Appeals decision on the merits of the case may raise issues relating to that denial. MCR 7.305(C)(7). [3/2017]

Delaying an application with the Supreme Court until after remand proceedings ordered by the Court of Appeals. The court rule provision allowing a party to raise issues in a later Supreme Court application that were initially asserted in the Court of Appeals but were not part of the remand proceedings presumes the party has a right to further review in the Court of Appeals after the remand proceeding has concluded. If the party has no right of review in the Court of Appeals because, for example, the trial court ruled in its favor on remand or the parties reached a settlement agreement, it may be impossible to obtain review by the Supreme Court of the issues decided adversely by the Court of Appeals in the initial appeal. [3/2017]

Example: Plaintiff filed a lawsuit claiming he was entitled to damages for lost wages and for pain and suffering. The trial court granted summary disposition to defendant on both claims, and the plaintiff appealed. The Court of Appeals affirmed the trial court on the issue of pain and suffering but remanded for further proceedings on lost wages. If the trial court again denies that claim, plaintiff can appeal to the Court of Appeals and, after a decision by that Court, can file an application with the Supreme Court challenging the Court of Appeal's decision on pain and suffering damages during the initial appeal. However, if on remand the trial court rules in plaintiff's favor on lost wages or if the parties reach a settlement on that issue, plaintiff could not file a subsequent appeal with the Court of Appeals because he would not be an aggrieved party. And it may be too late for

plaintiff to file an application with the Supreme Court on the pain and suffering issue from the initial adverse decision of the Court of Appeals. [3/2017]

[6] E-filing. Electronically filed documents that are received by 11:59:59 p.m. Eastern Time on a business day will be docketed as being filed that day. Electronic filings received between 12:00 a.m. and 11:59 p.m. on a Saturday, Sunday, or court holiday will be docketed on the following business day. See MCR 1.108; MCR 8.110(D)(2). Filers are cautioned not to wait until the last minute on the day a pleading is due to electronically submit it. If the document is not successfully e-filed before 11:59:59 p.m., it will be docketed the following business day unless the e-filing system, as acknowledged by ImageSoft, Inc., was inaccessible or incapable of receiving documents for a substantial period of time on the due date. [3/2017]

[7] Emergency or expedited consideration. A party who wants expedited consideration of a leave application must file a motion to expedite and pay the motion fee of $150. A prosecuting attorney is exempt from payment of the fee in a criminal case in which the defendant is represented by appointed appellate counsel. MCR 7.319(C)(2). The motion will result in the Court handling the case in an expedited manner but a ruling on the motion will usually not be announced until the Court issues its order on the application. [3/2017]

[a] Motion for Immediate Consideration vs Motion to Expedite. As explained in the Court of Appeals IOP 7.211(C)(6)-1 & -2, a motion for immediate consideration is meant to expedite the Court's consideration of another motion, whereas a motion to expedite is directed at the appeal itself. However, the Supreme Court accepts and treats motions for immediate consideration as ones to expedite a decision on the application when that is the filer's clear intent. [3/2017]

[b] Decision needed by specific date. The movant must clearly indicate in the motion whether action is needed by a specific date and explain why the Court should expedite its review of the case. Generally, expedited review is more likely to be granted if some action will be taken that cannot be reversed, undone, or remedied after the identified date. [3/2017]

(D) Answer.

If filing in hard copy, you must submit four copies (one with original signature) of the answer, along with a proof of service, within 28 days of being served the application. The answer is limited to 50 pages. If you e-file the answer, you do not need to provide hard copies to the Court. Admin Order 2014-23(II)(A). Although the Court will accept a late answer accompanied

by a motion to extend the time for filing, you should always try to file the answer timely to ensure that it is fully considered by the Court. [3/2017]

(E) Reply.

A reply and proof of service may be filed within 21 days after being served the answer. The reply is limited to 10 pages. Four copies (one with original signature) must be submitted unless the reply and proof of service are e-filed. Although the Court will accept a late reply accompanied by a motion to extend the time for filing, you should always try to file the reply timely to ensure that it is fully considered by the Court. The application can be submitted for decision after the reply brief is filed or the time for filing the reply brief has expired, whichever comes first. MCR 7.305(G). [3/2017]

(F) Nonconforming Pleading.

A notice from the Clerk's Office regarding a pleading that does not conform to the requirements of this rule must be cured within a specific period, usually 14 or 21 days, after the date of the notice from the Clerk's Office. Examples of common nonconforming pleadings include ones that are not accompanied with proofs of service, exceed the page limit restrictions, and do not follow the content requirements. If the defect is not timely cured, the filing may be stricken and, in the situation of a defective application, the case may be dismissed. MCR 7.317(B) and (D). [3/2017]

(G) Submission and Argument.

An application is usually submitted for the Court's consideration after the reply has been filed or the time for filing the reply has passed, whichever occurs first. Priority or expedited cases may be submitted to the Court earlier. Except under very limited circumstances, the Court does not hear oral arguments on an application. [3/2017]

[1] MOAA procedure. A "Mini Oral Argument on the Application" or "MOAA" (pronounced "mō-ah") allows the Court to explore the issues in a case without the full briefing and submission that apply to a grant of leave to appeal. A MOAA order requires a majority vote of the Justices. Following oral argument, the Court again considers the application and makes a determination of what action should be taken. [3/2017]

[a] Supplemental briefs. When the Court orders oral argument on an application, it may allow or require the parties to file supplemental briefs and sets the time within which the briefs are to be filed, usually 42 days. Frequently, the Court will specify particular issues of concern in a MOAA

order. The briefs are subject to the same 50-page limit as that imposed on briefs in calendar cases and should address the issues specified by the Court in its order. Although the court rules are silent on the number of supplemental briefs that must be presented to the Court when filing hard copies, the Clerk's Office requires four copies (one with original signature). [3/2017]

[b] Motion to extend the due date. MOAAs are usually scheduled relatively soon after the briefing period ends. For that reason, motions to extend the filing deadline, are discouraged and will be denied if filed too close to the argument date of the case. If one party moves to extend the filing date and it is granted, the Court's order will sua sponte provide the same extension to the other party, keeping with the mutual due date specified in the MOAA order. Replies to the supplemental briefs are accepted only upon order of the Court and are rarely permitted. [3/2017]

[c] Amicus briefs. The court rules do not address the due date of amicus curiae briefs when a case is being argued on the application but the Court recognizes the same due date as amicus briefs in calendar cases. That is, an amicus brief, along with a motion to accept the brief if required by MCR 7.312(H), is due within 21 days after the last timely filed supplemental brief is submitted or the time for filing the supplemental briefs has expired, whichever is earlier. [3/2017]

(H) Decision.

[1] Possible Court actions. The Court may issue an order granting or denying the application for leave to appeal, directing oral arguments on the application, or granting peremptory relief. The Court may also issue an opinion based on the pleadings without hearing oral arguments. [3/2017]

[a] Peremptory action. A "peremptory order" is one that rests on a stated assertion of the law, and applies that law to resolve a specific issue in the case, whether reversing or affirming, without the Court having heard oral arguments in the matter. Such an order typically resolves a legal issue with finality, although it may be necessary to remand for further proceedings based on the Court's ruling. As a general matter, an order that vacates a lower court opinion or order, but does not also resolve a legal issue in the case, is not considered peremptory. In addition, reversing a lower court decision based on clearly applicable recent Court authority does not constitute peremptory action. By internal policy, a peremptory order, as defined above, may only be granted upon the agreement of five of the seven Justices under ordinary circumstances. However, a peremptory order

may issue upon a simple majority vote of the Justices if warranted by emergency circumstances. [3/2017]

[b] Lag time between Justices' decision and entry of order. The Justices may make their decision in a case a few days before an order is actually entered by the Clerk's Office. The delay is due to the time needed to finalize and process the order. For this reason, a brief, motion, or stipulation may be returned to a party with an explanation that it was received too late for consideration by the Court even though it was received a day or two before the dispositional order was actually entered. [3/2017]

[2] Appeal Before Court of Appeals Decision. If the Supreme Court grants the application for leave to appeal or directs oral argument on the application before the Court of Appeals renders a decision in the case, jurisdiction over the case resides with the Supreme Court only and the subchapter 7.300 rules apply. [3/2017]

[3] Appeal After Court of Appeals Decision. If the Supreme Court denies an application for leave to appeal, the decision of the Court of Appeals becomes final and may be enforced according to its terms. If the Court grants the application or directs oral argument on the application, jurisdiction lies solely with the Supreme Court and the subchapter 7.300 rules apply. [3/2017]

[4] Issues on Appeal. Some grant orders will merely grant the application without limiting the parties' opportunity to address all of the issues raised in the application. Other orders may either limit the issues to be addressed or specify additional issues the Court wants the parties to address. The parties may not raise or address new issues unless (1) the Court specifically directs them to do so in the order granting leave or directing argument on the application, or (2) the Court enters a later order upon a party's motion establishing good cause to raise new issues. Litigants are advised to prepare their arguments as specifically directed by the Court. [3/2017]

(I) Stay of Proceedings.

As in the Court of Appeals, an appeal to the Supreme Court does not, by itself, operate to stay either the Court of Appeals or the trial court decision. But MCR 7.215(F)(1)(a) may operate to prevent the effectiveness of a Court of Appeals judgment pending the disposition of an application for leave to appeal to the Supreme Court. In addition, a stay entered by the Court of Appeals pursuant to MCR 7.209(E)(4) remains in effect pending disposition of an application to the Supreme Court unless otherwise ordered by the Supreme Court or the Court of Appeals. [3/2017]

MSC IOP 7.306 Original Proceedings

(A) When Available.

[1] Superintending control over lower court or tribunal. A complaint for superintending control against a lower court or tribunal can be initiated in the Supreme Court only if it involves the administrative supervision of the court / tribunal that is unrelated to a specific case. *Lapeer Co Clerk v Lapeer Circuit Judges*, 465 Mich 559 (2002). If the matter pertains to a lower court's / tribunal's action or inaction in a specific case, the complaint must be filed in the Court of Appeals and is reviewable by the Supreme Court only as an application for leave to appeal from an adverse decision of the Court of Appeals. A complaint for superintending control cannot be used as a vehicle to obtain the Court's review of a matter that could have been brought as an application for leave to appeal but the party simply failed to file it in a timely manner. [3/2017]

[2] Superintending control over the Board of Law Examiners (BLE), Attorney Discipline Board (ADB), or Attorney Grievance Commission (AGC). The Supreme Court has exclusive superintending control authority over the BLE, ADB, and AGC. An application for leave to appeal, not a complaint for superintending control, is the proper vehicle for challenging a disciplinary order of the ADB. See MCR 9.122(A). Superintending control can be filed to challenge the authority of the AGC or ADB to act or refuse to act when there is a clear legal prohibition or duty, respectively, during an investigative or disciplinary proceeding. See e.g., *Stoepker v Attorney Discipline Board,* 495 Mich 870 (2013); *Anonymous v Attorney Grievance Commission*, 430 Mich 241 (1988). The court rules do not allow an application for leave to appeal from an adverse decision of the BLE so a challenge to the decision can only be asserted in a complaint for superintending control filed with the Supreme Court. See *Scullion v Michigan State Board of Law Examiners*, 102 Mich App 711; 302 NW2d 290 (1981). [3/2017]

(B) What to File.

Filing requirements for original proceeding: 4 copies (1 with original signature) unless e-filed, $375 entry fee and $25 e-filing service fee unless waived by court rule or statute or accompanied by motion to waive, and proof of service.

[1] Number of copies. If filing in hard copy, you must submit four copies (one with original signature) of the complaint and brief in support. If you electronically file the complaint and brief, you do not need to also provide hard copies. Admin Order 2014-23(II)(A). [3/2017]

[2] Notice of Hearing. Prior to September 1, 2015, the court rule required the filing party to specify a notice of hearing date that was on a Tuesday at least 21 days after the complaint was filed. The notice of hearing date was the date on which the opposing party's answer was due before the matter would be submitted to the Court. The filing party no longer needs to identify a notice of hearing date because the time period for filing the answer is now established by court rule. [3/2017]

[3] Proof of service. Docketing of an original action is not complete and the matter will not be presented to the Court until the filer has provided proof of service on the defendant(s) and, for a complaint filed against the AGC or ADB, on the respondent attorney in the underlying discipline matter. [3/2017]

[4] Fees. The filing party must pay the fee when the complaint is filed unless the complaint is accompanied by a motion to waive fees and an affidavit of indigency. If the motion is denied, the fee must be paid within the time period specified by the Clerk's Office. [3/2017]

[a] The standard filing fee for an original action is $375. MCL 600.244(1)(b); MCR 7.319(C)(1). [3/2017]

[b] E-filing service fee. Beginning March 1, 2016, an additional $25 e-filing system fee is charged for civil cases that are commenced (i.e., initiated as an original action) in the Supreme Court except when the filing party is a government entity or has moved for and obtains a fee waiver. MCL 600.1986. As a practical matter, this fee will be collected only rarely because very few civil actions are commenced in the Michigan Supreme Court. NOTE: Incarcerated individuals who commence civil actions in the Supreme Court cannot be granted waivers of the e-filing service fee because MCL 600.2963 obligates them to pay the full amount of the filing fees required by law. [3/2017]

[c] Original civil actions by prisoners. MCL 600.2963 precludes the Supreme Court from granting a fee waiver in an original civil action filed by an indigent prisoner, although the prisoner may not have to pay the full filing fee upfront. The Clerk's Office will apply a formula based on the average monthly deposits and withdrawals from the prisoner's account to determine the amount, if any, of an initial partial fee that is owed. The prisoner must pay that partial fee and submit a written acknowledgment of respon-

sibility to pay the full fee, which will be collected incrementally from the prisoner's account, to avoid having the original action dismissed by an administrative order. The statute also precludes a prisoner from filing a new civil case if he or she still owes fees from a prior case filed in the Supreme Court. [3/2017]

(C) Answer.

If filing in hard copy, you must submit four copies (one with original signature) of the answer, along with a proof of service, within 21 days of being served with the complaint. The answer is limited to 50 pages. Although the Court will accept a late answer accompanied by a motion to extend the time for filing, you should always try to file the answer in a timely manner to ensure that it is fully considered by the Court. If you know in advance that your answer will be late, you should immediately file a motion to extend the due date rather than wait to submit the motion and untimely answer together. MCR 7.316(B). The motion will at least provide the Court with notice that you intend to submit an answer. [3/2017]

(D) Respondent Attorney's Brief.

In a complaint filed against the Attorney Grievance Commission or the Attorney Discipline Board, the respondent attorney may file a responsive brief of no more than 50 pages within 21 days of being served with the complaint. [3/2017]

(E) Reply.

A reply that is limited to no more than 10 pages may be filed within 21 days after being served with the answer. The original proceeding may be submitted to the Court for a decision after the reply brief is filed or the time for doing so has expired, MCR 7.306(H), so you should always try to file the reply in a timely manner. If your reply will be late, you should immediately move for an extension. MCR 7.316(B). [3/2017]

(F) Actions Against Attorney Grievance Commission; Confidentiality.

Complaints against the AGC or grievance administrator are non-public files when they relate to confidential matters under MCR 9.126, as certified by the grievance administrator in the answer to the complaint. [3/2017]

(G) Nonconforming Pleading.

A pleading that does not substantially comply with the filing requirements of the court rules must be corrected within the time specified by the Clerk's Office, usually within 14 or 21 days. A nonconforming pleading does not satisfy the time limitation for filing if it has not been corrected within the specified time and it may be stricken by the Court. [3/2017]

(H) Submission and Argument.

A complaint is submitted for the Court's consideration after the reply has been filed or the time for filing the reply has passed, whichever occurs first. Priority or expedited cases may be submitted to the Court earlier. Except under very limited circumstances, the Court does not hear oral arguments on a complaint. [3/2017]

(I) Decision.

The Court may schedule the case for oral argument as on leave granted, grant or deny the relief requested, or provide any other relief deemed appropriate. [3/2017]

MSC IOP 7.307 Cross-Appeals

(A) Filing.

Requirements for filing cross application: 4 copies (1 w/ original signature) unless e-filed within 28 days of the direct application, $375 fee unless waived by court rule or statute or accompanied by motion to waive, and proof of service.

An application for leave to appeal as a cross-appellant must be filed within 28 days of the filing of the leave application regardless of the case type. The cross application must comply with the same requirements as the direct application under MCR 7.305(A). The cross application is docketed as a "motion for cross appeal" under the case number of the direct application. [3/2017]

[1] Fees. A $375 filing fee must be paid for each application to cross-appeal unless the fee is waived. NOTE: This differs from the practice of the Court of Appeals, which does not collect a separate entry fee for a cross appeal when it pertains to the same lower court order or judgment as the direct appeal. See IOP 7.207(B)-1. [3/2017]

[2] Late application to cross-appeal. A late application to cross appeal cannot be accepted. The Clerk's Office will reject without docketing a late-filed cross-appeal or a motion to extend the time for filing the cross-appeal. MCR 7.316(B). The "prison mailbox rule," MCR 7.305(C)(4) pertains only to direct applications for leave to appeal so an application to cross-appeal filed by a prisoner must be received by the Clerk's Office within the 28-day deadline to be considered timely filed. A late-filed application to

cross-appeal will be rejected by the Clerk's Office and returned, if practicable, to the filer. [3/2017]

(B) Alternative arguments; new or different relief.

A party may argue alternative grounds in support of the judgment or order being appealed without filing an application to cross-appeal. But if new or different relief is sought in the Supreme Court, an application to cross-appeal is required. [3/2017]

MSC IOP 7.308 Certified Questions and Advisory Opinions

(A) Certified Questions.

[1] From Michigan Courts. There must be an action or proceeding pending in a trial court or tribunal for which an appeal could be taken to the Court of Appeals or Supreme Court that involves a controlling question of public law of such public "moment" (importance), per an executive message of the Governor, that an early determination of the question by the Supreme Court is warranted. If the Court is persuaded by the Governor's request, it may direct the trial court or tribunal to certify the question to the Supreme Court with a sufficient statement of facts to make clear the application of the question. [3/2017]

[a] Stay of proceedings. Once the Court directs certification of the question, further proceedings relative to the case in the trial court or tribunal are stayed. [3/2017]

[b] Decision. The Court renders its decision on the certified question in an opinion that is to be published. [3/2017]

[2] From Other Courts. The case is captioned "*In re Certified Question ([Plaintiff's Name] v [Defendant's Name])*." For the purposes of establishing the parties' designations for the case caption and the briefing schedule, the parties are designated in the manner used by the certifying court. The parties may stipulate to a different caption designation or sequence/timing of the briefs. [3/2017]

[3] Submission and Argument. The Court has discretion whether to hear oral arguments. Arguments, if desired, are noticed and scheduled in the manner set forth in MCR 7.313. The amount of time allowed for oral arguments may be either 15 or 30 minutes per side depending on the complexity and number of issues to be addressed. [3/2017]

(B) Advisory Opinion.

[1] Form of Request. The Michigan Constitution authorizes the governor or either house of the legislature to request an opinion of the Supreme Court "on important questions of law upon solemn occasions as to the constitutionality of legislation after it has been enacted into law but before its effective date." Const 1963, art 3, § 8. A request for an advisory opinion has typically come in the form of a letter signed by the governor. Legislative requests have come in the form of house and senate resolutions. The request for an advisory opinion must particularize any concerns regarding the constitutionality of the enacted legislation; a request that is stated too broadly will not be considered. *In re Request for Advisory Opinion on Constitutionality of 1986 PA 281*, 430 Mich 93, 98 n 2; 422 NW2d 186 (1988). The request is assigned a six-digit docket number and is captioned as follows or in a similar manner: *In re Request for Advisory Opinion on the Constitutionality of [Public Act Year and Number]*. [3/2017]

[2] Briefing. Briefs may be filed by the governor, a legislator, or the attorney general within 28 days of the date the request was filed. The brief should address why the Court should render an advisory opinion on the legislation and argue the merits for or against a ruling of constitutionality. The Court may issue an order requesting that the attorney general file an opposing brief to provide a counter-viewpoint to the position advocated in the brief(s) submitted. The order would specify the time period for filing the opposing brief. [3/2017]

[3] Submission and Argument. Requests for advisory opinions receive expedited review by the Court given their time sensitive nature. Oral arguments, if desired by the Court, will be scheduled as soon as practicable, including in a month the Court does not normally sit. See *In re Request for Advisory Opinion Regarding Constitutionality of 2011 PA 38*, 490 Mich 295; 806 NW2d 683 (2011) (arguments held in September). [3/2017]

[4] Decision. The Court may deny the request for an advisory opinion or grant peremptory relief by order or it may issue an opinion on the request. The Court makes every effort to decide whether to issue an advisory opinion and, if so, render a decision on the merits within the time specified in the request. But the constitutional provision requires only that the request be made before the legislation's effective date, not that the Court must issue a decision by that time. An advisory opinion does not constitute a decision of the Court and is therefore not precedentially binding like a decision of the Court on the merits in an actual case and controversy. *In re Requests for Advisory Opinion re Constitutionality of 1972 PA 294*, 389 Mich 441, 460-461 n 1; 208 NW2d 469 (1973). [3/2017]

MSC IOP 7.310 Record on Appeal

(A) Transmission of Record.

The Supreme Court obtains both the trial court / tribunal records and the Court of Appeals files on virtually all applications for leave to appeal. If the Court of Appeals obtained the record for its consideration of the case, it holds the record until the appeal period has passed. If an application is filed with the Supreme Court, the Court of Appeals will forward the lower court / tribunal record to the Supreme Court. If an application is not filed, it will return the record to the lower court / tribunal. For Attorney Grievance Commission, Attorney Discipline Board, and Judicial Tenure Commission matters, the Court obtains the files of those entities. Because the Supreme Court will possess the record, it is not necessary to append extensive documents from the record to an application. But it is helpful to attach relevant excerpts of the record. [3/2017]

[1] Exhibits. Exhibits are not always sent to the Court with the lower court record. If a party wants to ensure that an exhibit, such as a photograph, is reviewed, it should be filed with the application or pleading. Color photographs or other documents should be submitted in their original form. If e-filing or submitting a scanned or photocopied photograph or other colored document, you should check the item for clarity before sending it. Black and white photocopies or scans of colored items are strongly discouraged. If an e-filed item is muddied or faded, it should be recopied/ scanned at a higher resolution (400 dpi) and in color, if applicable, or the original should be submitted to the Court. [3/2017]

[2] Non-record materials. MCR 2.302(H)(3) excludes discovery materials from the record on appeal unless they were filed in the trial court under that rule. Appending or arguing materials not in the record may subject the filer to having portions of the offending pleadings stricken on motion by opposing counsel or on the Court's own motion unless all parties stipulated to the submission of the extra-record materials (see Stipulations, below). A party may also file a motion to expand the record by clearly identifying the material to be submitted and explaining why the Court should consider it. [3/2017]

(B) Return of Record.

After the entry of the orders or opinions resolving the applications or original actions, the Court of Appeals files and the trial court / tribunal records are returned (assuming a physical file was received by the Court), along with certified copies of the Court's order or opinion. With increasing fre-

quency, the lower court / tribunal records are available to the Supreme Court in electronic form only so there is no physical record to return. [3/2017]

(C) Stipulations.

The parties may file a written stipulation with the Court regarding any matter that constitutes the basis for an application for leave to appeal or is relevant to the record on appeal. [3/2017]

MSC IOP 7.311 Motions in Supreme Court

(A) What to File.

Fees: $150 for motion for immediate consideration or to expedite appeal and $75 for all other motions unless waived. MCR 7.319(C)(2) & (3).

A motion ancillary to a pending application may be filed at any time. Common motions that generate the most procedural questions received by the Clerk's Office are:

[1] Motion for dismissal of the application. This relief is generally sought by stipulation under MCR 7.318 reflecting the agreement of the parties that the application be dismissed with prejudice and without costs. The Court generally will not dismiss a matter *without* prejudice and has typically denied dismissal motions that also request the Court to vacate the decisions below. The Clerk's Office will wait for a short period to see if there is a response to the motion requesting withdrawal or dismissal before submitting the matter to the Court for disposition. [3/2017]

[2] Motion for temporary admission to practice before the Court. This motion is governed by MCR 8.126 which provides a more detailed procedure than that set forth in State Bar Rule 15 prior to its 2008 amendments. [3/2017]

[a] Amendments to MCR 8.126, effective May 1, 2016. Recent amendments to the *pro hac vice* court rule moved to the State Bar of Michigan the responsibilities that were previously tasked to the Attorney Grievance Commission. After being notified by the State Bar that the court rule requirements have been satisfied, the Court will enter an administrative order granting the out-of-state attorney permission to temporarily appear and practice in the case. [3/2017]

[b] Out-of-State Attorney Filing an Amicus Brief. If an in-state attorney is the primary signatory of the amicus curiae brief, an out-of-state attorney need not be admitted to appear and practice under MCR 8.126 in order to also be a signatory of the brief. [3/2017]

[3] Motion for leave to file a brief amicus curiae. Although specific mention of briefs amicus curiae appears only in the rules relating to advisory opinions and calendar matters, MCR 7.308(B)(2) and 7.312(H), the Court not only permits the filing of amicus briefs at the application stage but encourages it. Because it cannot be known with certainty when the Court will act on an application, interested persons or organizations should file the amicus brief as soon as possible. A motion to file the amicus brief must be filed unless the person or organization has a right to participate as an amicus under MCR 7.312(H)(2). Amicus briefs are also welcome, and oftentimes invited, for cases that will be argued on the application under MCR 7.305(H)(1) and 7.314(B)(2). [3/2017]

[4] Motion to substitute a party. A motion to substitute a party *is not* required if a written request to substitute is accompanied by an order of the trial court evidencing the substitution. [3/2017]

[5] Motion to disqualify a Justice. A party seeking to disqualify a Justice from participating in the decision of a case must file a motion to disqualify, setting forth with particularity the reasons for the request. The motion must be filed within 28 days after the filing of the leave application or within 28 days of discovering the ground(s) for disqualification. MCR 2.003(D)(1)(c). The motion is submitted to the challenged Justice for a decision. The Justice will grant or deny the motion in a written statement that is mailed to the parties and docketed in the Court's case management system as a miscellaneous order. If the Justice denies the motion to disqualify, the party may move for review of that decision by the entire Court. The Court will issue its ruling in an order that contains its reasons for granting or denying, and includes any concurring or dissenting statements by individual Justices. MCR 2.003(D)(3)(b). [3/2017]

(B) Submission and Argument.

[1] Submission. Motions are generally submitted for the Justices' consideration on the first Tuesday at least 14 days after they were filed. Some motions, especially emergency matters or those involving procedural requests that are handled administratively by the Chief Justice, may be submitted earlier to advance the administration of justice. Certain motions may not be addressed until a commissioner report is prepared on the leave application and is circulated to the Justices. In those instances, the rulings on the motions will likely be announced in the Court's dispositional orders. [3/2017]

[2] Oral argument. There is no oral argument on a motion unless ordered by the Court. A party seeking to orally argue a motion must file a motion to do so, but such motions are rarely granted. [3/2017]

(C) Answer.

An answer to any type of motion may be filed at any time before the Court enters an order on the motion. In most instances, motions are not submitted for the Court's consideration until at least 14 days after they were filed, although that time may be shortened if necessary to advance the efficient administration of justice. [3/2017]

(D) Motion to Seal File.

The trial court, tribunal, or Court of Appeals files that were ordered sealed by those courts will maintain their seal in the Supreme Court. A motion is required to seal any new materials that are sought to be sealed in the Supreme Court. The Clerk's Office will treat as confidential, and will not disclose to the public, any materials that are subject to a motion to seal while the motion is pending. If the Court grants the motion, the materials remain sealed from public disclosure. A motion to seal should identify the specific interests to be protected, establish good cause for sealing, and address whether there are less restrictive means (e.g., redaction) to protect the confidential information. Motions to seal are handled by the Court on an expedited basis. Opinions or orders of a trial court/tribunal, the Court of Appeals and the Supreme Court, including an opinion or order dealing with the motion to seal, cannot be sealed. MCR 8.119(I)(5). [3/2017]

(E) Motion for Immediate Consideration or to Expedite Proceedings.

[1] Immediate consideration. A motion for immediate consideration is non-substantive in nature and merely seeks the immediate review of another motion—one that was either already pending or filed contemporaneous with the motion for immediate consideration. [3/2017]

[2] Expedite Proceedings. A motion to expedite is the proper vehicle for seeking the Court's expedited review of an application for leave to appeal, an original action, or a case in which leave has been granted or is to be argued on the application. [3/2017]

[3] Fee. The fee for a motion for immediate consideration or a motion to expedite appeal is $150, except that a prosecuting attorney is exempt from paying a fee in an appeal arising out of a criminal proceeding if the defendant is represented by a court-appointed lawyer. MCR 7.319(C)(2). [3/2017]

[4] Submission. Motions for immediate consideration or to expedite proceedings are given prompt attention. Motions that are personally served under MCR 2.107(C)(1) or (2), which includes electronic service through the TrueFiling system, are submitted immediately. If served by mail, such motions are submitted seven days after filing unless the non-moving party acknowledges receipt before that time. If the Court determines that the motion does not deserve immediate consideration or the proceedings need not be expedited, it may not issue a prompt ruling on the motion or decision in the proceeding. [3/2017]

(F) Motion for Rehearing.

[1] Filing and effect. A party may seek rehearing of a case decided by opinion by filing a motion for such within 21 days after the issuance of the opinion. The court rules prohibit the Clerk's Office from accepting a late motion for rehearing, a motion to extend the time for filing the motion for rehearing, or a motion for reconsideration of an order denying rehearing. MCR 7.311(F)(5) and 7.306(B). The filing of the motion suspends the issuance of final process until the motion is denied or at least 21 days after the Court issues a new judgment on rehearing except when the Court has directed the Clerk to issue the judgment order immediately under MCR 7.315(C)(3) (a direction that would be reflected in the Court's opinion). That suspension continues until the Court acts on the motion or, if the motion is granted, until final disposition of the case. [3/2017]

[2] Content. A motion for rehearing must include reasons why the Court should modify its opinion. A motion for rehearing that merely repeats arguments from the earlier pleadings will not be granted; the motion must demonstrate a palpable error by which the Court and the parties were misled and show that a different outcome would result from correction of the error. MCR 2.119(F)(3). [3/2017]

[3] Submission. The Clerk usually adds a motion for rehearing to the opinion agenda for consideration by the Justices at their weekly conference as soon as the answer is filed or the time for doing so has expired. Occasionally, the Court will, in lieu of granting rehearing, amend its opinion by an order that is effective immediately and which concludes the Court's consideration of the matter. [3/2017]

(G) Motion for Reconsideration.

[1] When to file. A motion for reconsideration is the proper vehicle for asking the Court to reconsider an order disposing of a case even when the case was argued pursuant to a leave granted or MOAA order. A motion for

reconsideration may be filed within 21 days after the entry of the Court's dispositional order. This time limitation is strictly enforced; the Clerk's Office returns without docketing any motion received thereafter. Also, the Clerk's Office cannot accept a motion to permit an untimely filing. MCR 7.316(B). [3/2017]

[2] Grounds for relief. The same general principles that govern motions for reconsideration in trial courts apply. MCR 2.119(F)(3). That is, to prevail on a motion for reconsideration, the movant must demonstrate a palpable error by which the Court was misled and that a different disposition of the matter would result from correction of the error. [3/2017]

[3] Effect of motion for reconsideration. A motion for reconsideration does not stay the effect of the order addressed in the motion. [3/2017]

[4] Submission. If a case was argued pursuant to a leave granted or MOAA order, the motion for reconsideration will be considered by the Court at a weekly conference after the answer has been filed or the time for filing the answer has passed. If the case was not argued, it will not be specially considered at a weekly conference but will be considered as part of the larger monthly release of orders. [3/2017]

MSC IOP 7.312 Briefs in Calendar Cases

(A) Form.

The entry of an order granting leave to appeal or directing argument on the application starts the time running for filing the parties' briefs and appendixes. Supreme Court briefs must adhere to the requirements for Court of Appeals' briefs. See MCR 7.212(B) – (D). Specifically, the briefs must be printed on one side of the page only, with one-inch margins and using a 12-point or larger font. The text of the brief must be double-spaced but quotations and footnotes may be single-spaced. [3/2017]

(B) Citation to Record; Summary of Argument; Length of Brief.

The statement of facts must reference the specific appendix page numbers of the transcripts, pleadings or other documents being cited. See subsection (D), infra, for information on numbering the appendixes. The principal briefs may not exceed 50 pages, excluding the table of contents, index of authorities, and appendixes, unless the Court has granted a motion to exceed the page restrictions of the court rules. If the argument portion of

an issue exceeds 20 pages, the brief must include a summary statement of the argument. The summary argument counts toward the page limitation of the brief. Factual statements or legal arguments contained in an appendix or other document that are incorporated by reference in the brief are also counted toward the page limitation. A reply brief may not exceed 10 pages except by order of the Court. [3/2017]

(C) Cover.

If filing hard copies of a brief, the cover must be heavier paper and be colored as follows: (1) appellant's brief = blue; (2) appellee's brief = red; (3) reply brief = gray; and (4) intervenor/amicus brief = green. If filing the brief electronically through TrueFiling, you should not submit a colored cover because it may decrease its legibility if it is later printed by the Justices or Court staff in black and white. [3/2017]

(D) Appendixes.

A common failing of practitioners is to give inadequate attention to the preparation of the appendix. Those portions of the record having a bearing on the issues before the Court should be reproduced as completely as practicable and appended in chronological order. Appendixes that are submitted electronically through TrueFiling should be combined into a single file whenever possible, and the individual documents should be identified using bookmarks or page inserts with the appendix number or letter and its title. Combining multiple appendix documents into one file is more efficient for the Clerk's Office because it can be docketed and linked to the Court's case management system a single time. TrueFiling limits the size of each file in a bundle to 25 MB so if the combined appendices document exceeds that limit, it may be split into two or more smaller files. [3/2017]

[1] Form and Color of Cover. If filing hard copies of the appendixes, the cover must be yellow and printed on heavier paper. When e-filing appendixes, you should not use a colored cover because it causes black and white printed copies to appear muddied. If appendixes are identified and separated with plastic tabs, the original should have bottom tabs because they allow for electronic scanning. Appendixes must be printed on both sides of the page and include a table of contents. [3/2017]

[2] Appellant's Appendix. The appellant's appendix must be specifically identified as such and its pages must be numbered as 1a, 2a, 3a, etc. The court rule does not specify the location of the page numbers but most litigants place in the bottom center of the page. If the document's original page numbers are located in that position, the appendix page numbers

should be emphasized in such a way that the Court can easily discern them. The court rule also does not specify the type of document descriptor that is to be included in the header. It should be as short and descriptive as possible. [3/2017]

[3] Joint Appendix. The parties may stipulate to the use of a joint appendix as containing the matters deemed necessary to fairly decide the questions involved. The joint appendix should be clearly labeled as "Joint Appendix," should be bound separately, and served with the appellant's brief. The page numbers should therefore follow the format of the appellant's appendix. If a joint appendix is submitted, the stipulation should also specify whether the parties may file additional portions of the record not covered in the joint appendix. Absent such a statement, the parties may not file supplemental appendixes. The appellant must clearly identify the materials submitted as a joint appendix and those submitted as the appellant's appendix. [3/2017]

[4] Appellee's Appendix. The appellee's appendix must be entitled "Appellee's Appendix" and, similar to the appellant's appendix, must be number 1b, 2b, 3b, etc. The appellee's appendix should not duplicate material included in the appellant's or a joint appendix, except as necessary to clarify a matter. [3/2017]

(E) Time for Filing.

Unless the Court directs a different time for filing, the briefs in cases where leave has been granted are due as follows: (1) appellant's brief and appendix, if any = 56 days after the date of the order granting leave to appeal; (2) appellee's brief and appendix, if any = 35 days after the appellant's brief is served on the appellee; and (3) appellant's reply = 21 days after the appellee's brief is served on the appellant. The time for filing supplemental briefs in cases being argued on the application is specified in the Court's order—typically within 42 days of the date of the order but it may be shorter in emergency or priority cases. [3/2017]

[1] Extensions for filing briefs in leave granted cases. If an extension of the filing time is required, the party should move to extend the time as soon as possible before the due date of the brief. The motion must establish good cause for the extension and aver that the inability to meet the filing deadline is not due to the culpable negligence of the party or attorney. See MCR 7.316(B). [3/2017]

[2] Extensions for filing supplemental briefs in cases being argued on the application. If a party moves to extend the time for filing a supplemental brief in a case being argued on the application and it is granted,

the same extension will be granted sua sponte to the opposing party, consistent with the Court's original order directing that the parties' supplemental briefs be submitted on or before the same date. Replies to the supplemental briefs are accepted only upon order of the Court and are rarely permitted. [3/2017]

[3] Length of extensions and multiple motions. Motions that seek extensions in excess of the original time for filing under the court rules or pursuant to Court order are strongly disfavored, as are subsequent motions for additional extensions. [3/2017]

(F) What to File.

If filing hard copies, 14 copies of the brief (one with original signature) and appendixes must be submitted to the Clerk's Office. If e-filing the brief, you need not submit any hard copies to the Court. Admin Order 2014-23(II)(A). [3/2017]

(G) Cross Appeal Briefs.

If leave to appeal is granted in both an application and a cross application, the appellee/cross-appellant may file a combined brief within 35 days of being served the appellant's brief in the primary appeal unless otherwise directed by the Court. The appellant/cross-appellee may file a combined brief in response to the cross appeal and as a reply in the primary appeal within 35 days of being served the cross-appellant's brief. This results in the appellant/cross-appellee having more time to file the reply than allowed by the court rules if the reply were filed separately. The combined briefs are still subject to the 50-page limitation but may be extended by Court order in response to a properly filed motion. The reply in the cross appeal is limited to 10 pages and is due within 21 days of being served the cross-appellee's responsive brief. [3/2017]

(H) Amicus Curiae Briefs and Argument.

Frequently, the orders granting the applications for leave to appeal or directing argument on the applications will invite specific persons or groups to file briefs amicus curiae. An invited person or group is not required to file a motion to submit an amicus brief. A motion also is not required from the groups identified in MCR 7.312(H)(2) for the relevant case types. All other persons or groups must move for permission to submit an amicus brief. Generally, motions to submit amicus briefs are decided in administrative orders of the Chief Justice. But if an amicus brief and accompanying motion are received after the Clerk's Office sends the

notice of cases being argued, the Court may table a decision on the motion until the dispositive opinion or order is entered. [3/2017]

(I) Supplemental Authority.

Prior to September 1, 2015, the subchapter 7.300 court rules did not explicitly allow a party to file a supplemental authority. A party seeking to do so also had to file a motion for leave to submit the supplemental authority. A motion is no longer required so long as the supplemental authority comports with MCR 7.212(F). Specifically, the supplemental authority may not raise new issues, repeat arguments or authorities from the initial brief, or cite to unpublished opinions. Also, the body of the supplemental authority is limited to one page. A nonconforming supplemental authority (e.g., in excess of one page in length) must be accompanied by a motion to accept the nonconforming authority. [3/2017]

(J) Extending or Shortening Time; Failure to File; Forfeiture of Oral Argument.

[1] Extending or shortening briefing time. In its order granting leave or in a subsequent order issued sua sponte or by motion of a party, the Court may direct a briefing schedule that is longer or shorter than the periods specified in MCR 7.312(E) to, for example, expedite a case for oral argument or time the submission of briefs closer to a specific argument date. [3/2017]

[2] Failure to file brief. If an appellant fails to timely file a brief, the case may be designated as no progress and subject to involuntary dismissal under MCR 7.317. [3/2017]

[3] Forfeiture and restoration of argument. A party filing a late brief forfeits the right to oral argument. To restore the right to argue, the party must file a motion for oral argument at least 21 days before the first day of the calendar session under MCR 7.313(B)(2). The motion must demonstrate good cause and lack of culpable negligence for the failure to timely file the brief. See MCR 7.316(B). [3/2017]

MSC IOP 7.313 Supreme Court Calendar

(A) Definition.

A calendar case is one in which the Court has granted the application for leave to appeal or an original action that is to be argued at a monthly session (e.g., a JTC disciplinary case). [3/2017]

(B) Notice of Hearing; Request for Oral Argument.

[1] Notice of Oral Argument. At least 35 days before the first day of argument in the monthly session, the Clerk's Office mails a notice of those cases to be argued at an upcoming session to the attorneys associated with the cases, including attorneys for amici curiae. The notice indicates the days on which argument will be held and lists the cases and those attorneys who are identified as arguing on behalf of the parties. An attorney who is misidentified as arguing a case should contact the Clerk's Office immediately to provide the name and contact information of the arguing attorney. The notice also identifies the date on which the actual schedule of arguments will be posted to the home page of the Court's website.[12] The notice period may be shortened by the Court on its own initiative or on motion of a party. [3/2017]

[2] Attorney Vacations or Conflicts. Once the Court grants an application for leave to appeal or directs oral argument on the application, the attorneys of record should immediately notify the Clerk's Office in writing of any vacation plans or other commitments that might conflict with the Court's future argument dates. You should not wait until receiving a notice of argument to inform the Clerk's Office of a schedule conflict. Although providing a timely notice of conflict does not guarantee that the case will not be scheduled for argument, every effort will be made to accommodate your vacation or prior commitment. The Court is less likely to accommodate your conflict if you waited until after receiving the notice of argument to advise the Clerk's Office. [3/2017]

[3] Request for Oral Argument. If oral argument was not preserved (either because the title page of the brief failed to request it or because the brief was not timely filed), the attorney must file a motion for oral argument at least 21 days before the first day of the monthly session. [3/2017]

[4] Argument by Amicus Curiae. Only rarely will the Court sua sponte grant separate argument time to amici curiae. See the order granting leave to appeal in No. 152849, *People v Steanhouse*, and Nos. 152946-8, *People v Masroor*, which invited the Prosecuting Attorneys Association of Michigan and the Criminal Defense Attorneys of Michigan to participate as amici

12. http://courts.mi.gov/courts/michigansupremecourt/pages/default.aspx

curiae and granted each ten minutes of oral argument time. If the Court has not granted argument time on its own, an amicus curiae who wants to participate in oral argument, either by having separate and additional time from that of the parties or by sharing the time of a party, must file a motion. If the motion indicates that a party consents to the time sharing, the motion will usually be granted in an administrative order of the Chief Justice. Separate argument time is rarely granted upon motion of amicus curiae. [3/2017]

(C) Arrangement of Calendar.

At least 21 days before the first day of arguments in the monthly session, the Clerk's Office posts the schedule of arguments on the home page of the Supreme Court's website.[13] Hard copies of the schedule are no longer mailed to the attorneys. The schedule lists the order of cases to be argued in the morning and afternoon sessions of each argument day. The Clerk's Office makes every effort to accommodate the conflicts or preferences of the attorneys when it is notified in writing in advance of the schedule being posted. The Clerk's Office also attempts to schedule the first arguments of the day, especially during the winter months, in cases where the attorneys are located near the Hall of Justice in Lansing. [3/2017]

(D) Rearrangement of Calendar; Adjournment.

An attorney may file a written stipulation at least 21 days before the first day of the argument session to have his or her case argued on a certain day or at a certain time. Within the 21-day period, a motion to rearrange the argument schedule is required; a written stipulation will no longer be accepted. To adjourn a case from the monthly session, a motion is required. The closer the motion to adjourn is filed to the argument date, the less likely the adjournment will be granted. The Court may also assess costs against a party who delays moving for adjournment without good reason. [3/2017]

(E) Reargument of Undecided Calendar Case.

If a *calendar case* has not been decided by the end of the Court's annual term on July 31, the parties may file supplemental briefs. In addition, if either party requests reargument within 14 days after the beginning of the new term, the case will be scheduled for reargument at a future session of the Court. The filing of supplemental briefs and reargument of cases do

13. http://courts.mi.gov/courts/michigansupremecourt/pages/default.aspx

not apply to cases that were argued on the application under MCR 7.305(H)(1). [3/2017]

MSC IOP 7.314 Call and Argument of Cases

(A) Call; Notice of Argument; Adjournment from Call.

The Chief Justice calls the cases for argument in the order they are listed on the schedule. Changes to the order, including adjournment from the session, are not allowed except upon a showing of extreme urgency. The parties may stipulate to the submission for a decision on the briefs, without oral argument, at any time.

[1] Monthly case calls. The Court typically hears oral arguments in calendar cases and MOAAs on Tuesdays, Wednesdays, and Thursdays during the first full weeks of October, November, December, January, March, April and May. Arguments are divided into a morning session, which starts at 9:30 a.m., and an afternoon session, which usually starts around 12:30 to 1:00 p.m. Counsel must check in at the Clerk's Office on the 4th floor of the Hall of Justice by 9:15 a.m. for the morning session cases and by 12:15 p.m. for the afternoon session cases. Depending on how many cases are available for argument that month, the Court may not sit all three days or may not schedule an afternoon session on one or more days. [3/2017]

[2] Panels. All seven Justices participate in oral arguments and the decision of the case unless a Justice is recused or unless there is a vacancy. A Justice who joins the Court after oral arguments but prior to a decision in a case may choose to participate in the decision and will express his or her view based on the pleadings and the video recording of the argument. [3/2017]

(B) Argument.

The Justices are intimately familiar with the factual background, procedural history, issues raised, and relevant law of the cases being argued. Thus, oral argument is not intended to simply summarize your brief, although you may need to clarify or emphasize parts of it. Moreover, you should not simply focus on a specific remedy as it affects your case—be prepared to advise the Justices on the legal holding you think the Court should issue that will control this and future cases. If you have not previously appeared before the Court, you should watch several arguments (live or recorded) in advance to get a sense of how to effectively argue a case. You should also

consult the "Guide for Counsel in Cases to Argued in the Michigan Supreme Court," which is available on the Court's website.[14] Oral arguments are streamed live during case call on the Supreme Court's website[15] and are archived for viewing on the Court's YouTube channel[16] and the State Bar of Michigan's website.[17] [3/2017]

[1] Calendar cases. When both sides are endorsed for oral argument, the argument time allotted is 30 minutes per side under the Court orders otherwise. If only one side is endorsed for argument, he or she is given half the time—15 minutes—to argue. The first five minutes of a 30-minute argument or the first two minutes of a 15-minute argument are colloquially termed "free fire zones" because you will be able to make your argument without interruption by questions from the Justices. You should use this time to explain what you consider to be your most compelling arguments. You may waive all or part of the uninterrupted period. If you do so, you should advise the Justices when you are ready to take questions. For example, in a full argument case, your opening argument takes only three minutes so you thereafter inform the Justices that you waive the remainder of your free fire zone and are willing to answer their questions. [3/2017]

[2] MOAAs. Each side has only 15 minutes of argument when both sides are endorsed. If only one side is endorsed, the argument time is 7.5 minutes. The free fire zone encompasses the first two minutes of argument in a MOAA case, regardless whether a 15-minute or 7.5-minute argument. [3/2017]

[3] Cases that are to be scheduled for oral argument at the same session vs cases that are to be "argued and submitted" together at the same session. If the orders granting leave or directing oral argument in two separate cases specify only that the cases are to be scheduled for the argument at the same session of the Court, the cases will be argued separately and the attorneys will get the full amount of argument time allowed under the court rules in each case. If, however, the orders direct that the cases are to be argued and submitted together at the same session, they will be argued together and the attorneys are allowed only the argument time for a single case under the court rules. In that situation, the attorneys

14. http://courts.mi.gov/Courts/MichiganSupremeCourt/Documents/MSC%20Guide%20for%20Counsel.pdf

15. http://courts.mi.gov/Courts/MichiganSupremeCourt/Clerks/Oral-Arguments/Pages/live-streaming.aspx

16. https://www.youtube.com/user/MichiganCourts

17. http://www.michbar.org/courts/virtualcourt

may split the oral argument time evenly or apportion it in whatever manner they wish. [3/2017]

[4] Motions to extend, share, or receive special argument time. The Court rarely grants additional argument time to the attorneys in advance, even in the most complicated cases. However, the attorney may end up exceeding the time allotted under the court rules if the Justices have more questions after the argument time ends. Occasionally, an amicus party will move to participate in oral argument, either by having separate and additional time from that of the parties or by sharing the time of a party. If the motion indicates that the party consents to the time sharing, the motion will usually be granted in an administrative order of the Chief Justice. The Court rarely grants separate argument time to amicus curiae, either sua sponte or upon motion of amicus curiae. But see the Court's leave granted order of May 25, 2016, in No. 152849, *People v Steanhouse*, and Nos. 152946-8, *People v Masroor*. [3/2017]

[5] Post-argument pleadings. A party or amicus curiae seeking to file a post-argument pleading with the Court must file a motion seeking permission to do so unless the Court specifically directed the filing of supplemental pleadings at oral argument or in a subsequent order. A post-argument pleading may be beneficial to further explain or correct a statement made at oral arguments. [3/2017]

MSC IOP 7.315 Opinions, Orders, and Judgments

(A) Opinions of Court.

[1] Assignment of writing responsibility. After oral argument, the Justices confer and discuss their preliminary views on how the cases should be resolved and the appropriate relief, if any. For opinion writing purposes, each case is randomly assigned to one of the Justices in the tentative majority. The authoring Justice is expected to circulate the proposed majority opinion within a certain number of weeks, depending on the complexity of the case and whether the case was argued near the end of the Court's term. Occasionally, an opinion that initially circulated as a majority opinion must be converted to a concurrence or dissent if four or more Justices ultimately disagree with its analysis or conclusion. [3/2017]

[2] Concurrences / dissents. Those Justices who are in the tentative minority after oral argument usually do not begin preparing a concurrence or dissent until after the proposed majority opinion has circulated. If two or more Justices have a minority view of the case, they will decide who among themselves will draft the proposed concurrence or dissent. There

may be multiple concurrences and dissents in a case if there are differing minority views. [3/2017]

(B) Filing and Publication.

Once conference consideration of an opinion has concluded and the Clerk is directed as to which Justices join which opinions, the Reporter's Office finalizes its edits to the opinions and prepares the syllabi and headnotes for publication in the Michigan Reports. On the release date, which is also the "Filed" date of the opinion, the Clerk emails the opinion to the attorneys who argued the case and mails hard copies to all attorneys of record. The following day, the opinion is posted on the Court's website and an email is sent to the opinion listserv subscribers[18] notifying them that the opinion is available. [3/2017]

(C) Orders or Judgments Pursuant to Opinions.

[1] Entry. Unlike the practice of the Court of Appeals, the Supreme Court enters an order, called a remittitur, to effectuate the holding of an opinion and to signal that the case is concluded in the Supreme Court. Unless an opinion explicitly states that it is to have immediate effect (see "Exceptional Issuance," below), the opinion is given routine issuance. [3/2017]

[2] Routine Issuance. Between three and four weeks after an opinion is issued or after an order denying a timely filed motion for rehearing, the remittitur is entered and copies are sent to the trial court and Court of Appeals. [3/2017]

[3] Exceptional Issuance. If an opinion directs that it is to have immediate effect (using language such as, "Pursuant to MCR 7.315(C)(3), the Clerk is directed to issue the judgment order forthwith," *People v Allen*, 499 Mich 307 (2016), the remittitur enters on the same day as the opinion. The holding of the opinion is immediate and is not suspended pending a decision on a motion for rehearing. The force and effect of the opinion will only be suspended by Court order granting a party's motion to halt execution or enforcement. [3/2017]

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18. To receive email notifications of the opinions of the Supreme Court and Court of Appeals, orders of the Supreme Court, and administrative orders regarding court rules, evidence rules, ethics rules, etc., you should register your email address on the Opinion & Order Subscription page on the One Court of Justice website (http://courts.mi.gov/opinions_orders/subscribe-to-opinions-and-orders/pages/default.aspx).

[4] Execution or Enforcement. A party seeking enforcement of the Court's opinion must do so in the trial court after the time period has passed for exceptional or routine issuance, whichever applies. [3/2017]

(D) Entry, Issuance, Execution, and Enforcement of Other Orders and Judgments.

Orders of the Court are effective on the date they are entered even when the case was orally argued or when the order addresses the merits of a case. A separate remittitur is not entered. Copies of the orders are sent to the parties, the Court of Appeals, and the trial court. Although the court rules do not specifically require it, copies of the orders are also sent to amici curiae. At present, hard copies are mailed to the parties and lower courts, although electronic copies are also emailed to parties in cases that were orally argued so they receive notice of the decision as soon as possible. In the future, the Clerk's Office anticipates sending electronic notifications of opinion and order releases to the parties and amici curiae. [3/2017]

MSC IOP 7.316 Miscellaneous Relief Obtainable

(A) Relief Obtainable.

This rule permits unique relief that may not be specified in other court rules. The Court applies this rule conservatively so as not to vitiate the letter or spirit of other rules. [3/2017]

(B) Allowing Act After Expiration of Time.

In limited situations, the Court may extend the time for taking an action required by the court rules after the period for doing so. Most motions to extend time are granted or denied by administrative orders of the Chief Justice rather than orders of the full Court. [3/2017]

The jurisdictional deadlines for filing leave applications or original actions may not be extended under this rule. Extensions are also not available when the court rules explicitly preclude them, e.g., filing late motions for rehearing or reconsideration. [3/2017]

(C) Vexatious Proceedings.

The language of this rule is almost identical to that of the equivalent Court of Appeals rule, MCR 7.216(C) and should be construed consistently. There are two important differences, however. First, the Court of Appeals rule references MCR 7.211(C)(8) and requires that a motion for damages or other

disciplinary action be filed within 21 days of the order or opinion that disposes of the matter that was alleged to be vexatious. Although the Supreme Court rule does not specify a time period for filing such a motion, any undue delay in doing so will be considered by the Court when deciding whether to award damages or impose disciplinary sanctions. Second, the Supreme Court rule specifies that a party's motion for vexatious relief must be filed *before* the case is placed on a session calendar for argument. After a case is placed on call, a request for sanctions under this rule is inappropriate. [3/2017]

Monetary sanctions, if awarded, may not exceed actual damages and expenses incurred in defending the vexatious appeal or proceeding, including reasonable attorney fees. Punitive damages may not exceed the amount of the actual damages. When actual damages are uncertain or are contested, the Court will likely remand the matter to the trial court to determine the award amount. [3/2017]

MSC IOP 7.317 Involuntary Dismissal; No Progress

(A) Designation.

A case may be designated as "No Progress" if the appellant fails to file its brief in a timely manner under MCR 7.312(E) (i.e., within 56 days unless extended by a Court order) or if a nonconforming brief is not remedied within the time specified by a Court order. Prior to September 1, 2015, the court rule allowed the "No Progress" designation if the appellant's brief was not filed within 182 days after the order granting leave or directing oral argument. [3/2017]

(B) Notice; Dismissal.

Notice of a "No Progress" designation is sent to the parties and identifies what the appellant must do to avoid dismissal of the case. If remedial action is not taken within 21 days, the case will be dismissed. A late-filed conforming brief must be accompanied by a motion showing good cause for the delay and will be accepted for docketing only if the dismissal order has not already entered. [3/2017]

(C) Reinstatement.

A party may move for reinstatement within 21 days after entry of the dismissal order upon a showing of mistake, inadvertence, or excusable neglect. A party may not seek to extend the 21-day deadline for reinstate-

ment by motion. An answer to a motion for reinstatement is due within 14 days. See MCR 7.311(B) and (C). [3/2017]

(D) Dismissal for Lack of Jurisdiction.

The Court may dismiss a case for lack of jurisdiction at any time. [3/2017]

MSC IOP 7.318 Voluntary Dismissal

The parties may stipulate to the voluntary dismissal of all or part of a case (i.e., some issues or some parties) at any time in the proceedings, although the Court has discretion to reject the stipulation if it believes the case should be decided notwithstanding the stipulation. Orders granting stipulations to dismiss are usually with prejudice and without costs to any party. The Court may impose costs on the parties when a stipulation to dismiss a case call matter is filed within 21 days of the first day of the oral argument session. If the appellee declines to stipulate to a dismissal, this court rule does not foreclose the appellant from filing a motion to dismiss the case under MCR 7.311. [3/2017]

MSC IOP 7.319 Taxation of Costs; Fees

(A) Rules Applicable.

The Supreme Court follows the procedural rules for taxing costs in the Court of Appeals. MCR 7.219. [3/2017]

(B) Expenses Taxable.

The prevailing party must submit a bill of costs to the Clerk's Office within 28 days of the Court's dispositive order or opinion. Only those costs incurred in prosecuting or defending the action in the Supreme Court may be sought. Objections must be submitted within seven days of being served the bill of costs. After the period for filing a motion for reconsideration or rehearing has passed or, if such motions have been filed, the motion has been denied, the attorneys will be notified by letter as to the amount of costs that may be taxed to the opposing party. [3/2017]

[1] Taxable amounts. In addition to recovering any filing fees that were paid, the prevailing party may tax $1.00 per original page at the application stage. No amount may be taxed for attachments to the application. For briefs in cases where leave was granted or argument was held on the application, the prevailing party may tax $2.00 per original page of the brief *and* the appendixes. [3/2017]

[2] Review of Taxation of Costs. The Supreme Court follows the procedural rules of the Court of Appeals (see MCR 7.219[B]-[E]) when a party challenges a taxation of costs decision. Either party may file a motion, along with a proof of service that it was served on the other parties, within seven days of the date of the letter taxing costs that sets forth the objections to the taxation of costs. The non-objecting parties may file an answer to the motion in accordance with MCR 7.311(C). Such matters are submitted to the full Court and are resolved by order. [3/2017]

(C) Fees Paid to Clerk.

An entry fee of $375 is charged for an application, cross-application, or original proceeding. That fee is charged to each party filing a separate application or cross-application even if another party had filed an earlier application from the same Court of Appeals order or judgment. Requests for fee waiver must be accompanied by an affidavit of financial condition reflecting sources and amounts of income as well as liabilities and expenses. Beginning March 1, 2016, an additional $25 e-filing system fee is charged for civil cases that are *commenced* (i.e., initiated as an original action) in the Supreme Court except when the filing party is a government entity or has moved for and obtains a fee waiver. MCL 600.1986. [3/2017]

(D) Violation of Rules.

The Court may impose costs on a party and/or an attorney for violating the court rules by, for example, submitting frivolous pleadings, missing filing deadlines, or misrepresenting the record. Costs assessed against an attorney are personal to the attorney and cannot be passed on to the client. [3/2017]

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