

# Order

Michigan Supreme Court  
Lansing, Michigan

July 6, 2015

Robert P. Young, Jr.,  
Chief Justice

ADM File No. 2015-09

Stephen J. Markman  
Mary Beth Kelly  
Brian K. Zahra

Proposed Amendments of  
Rule 2.403 of the  
Michigan Court Rules

Bridget M. McCormack  
David F. Viviano  
Richard H. Bernstein,  
Justices

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On order of the Court, this is to advise that the Court is considering an amendment of Rule 2.403 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at [Administrative Matters & Court Rules page](#).

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

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

Rule 2.403 Case Evaluation

(A)-(N) [Unchanged.]

(O) Rejecting Party's Liability for Costs.

(1)-(5) [Unchanged.]

(6) For purposes of this rule, actual costs are

(a) those costs taxable in any civil action, and

(b) a reasonable ~~attorney~~-fee based on a reasonable hourly or daily rate as determined by the trial judge for legal services necessitated by the rejection of the case evaluation, which may include legal services

provided by attorneys representing themselves or the entity for whom they work.

For the purpose of determining taxable costs under this subrule and under MCR 2.625, the party entitled to recover actual costs under this rule shall be considered the prevailing party.

(7)-(11) [Unchanged.]

*Staff Comment:* The proposed amendments of MCR 2.403(O) would allow a reasonable fee to be included in a request for costs by attorneys who represent themselves or who are employed by a party to the case for legal services provided after case evaluation is rejected.

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

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be sent to the Office of Administrative Counsel in writing or electronically by September 1, 2015, at P.O. Box 30052, Lansing, MI 48909, or [ADMcomment@courts.mi.gov](mailto:ADMcomment@courts.mi.gov). When filing a comment, please refer to ADM File No. 2015-09. Your comments and the comments of others will be posted under the chapter affected by this proposal at [Proposed & Recently Adopted Orders on Admin Matters page](#).



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

July 6, 2015

A handwritten signature in black ink, appearing to read "Larry S. Royster", written over a horizontal line.

Clerk