Order

Michigan Supreme Court
Lansing, Michigan

November 2, 2016

Robert P. Young, Jr.,
Chief Justice

Stephen J. Markman
Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Joan L. Larsen,
Justices

ADM File No. 2016-33

Proposed Amendment of
Rule 3.216 of the
Michigan Court Rules

On order of the Court, this is to advise that the Court is considering an amendment of Rule 3.216 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.]

MCR 3.216 Domestic Relations Mediation

(A)-(B) [Unchanged.]

(C) Referral to Mediation.

(1)-(2) [Unchanged.]

(3) Parties who are subject to a personal protection order or other protective order, or who are involved in a child abuse and neglect proceeding, may not be referred to mediation without a hearing to determine whether mediation is appropriate. The court may order mediation if a protected party requests mediation.

(D)-(G) [Unchanged.]

(H) Mediation Procedure.

(1) [Unchanged.]

(2) The mediator must make reasonable inquiry as to whether either party has a history of a coercive or violent relationship with the other party. Throughout the mediation process, the mediator must make reasonable efforts to screen for the presence of coercion or violence that would make mediation physically or emotionally unsafe for any participant or that would impede achieving a voluntary and safe resolution of issues.

(2)-(8) [Renumbered but otherwise unchanged.]

(I)-(K) [Unchanged.]

Staff Comment: The proposed amendments of MCR 3.216 would update the rule to be consistent with 2016 PA 93, which allows a court to order mediation if a protected party requests it and requires a mediator to screen for the presence of domestic violence throughout the process.

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 March 1, 2017, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2016-33. 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.

November 2, 2016

Clerk