

# Order

Michigan Supreme Court  
Lansing, Michigan

November 2, 2016

Robert P. Young, Jr.,  
Chief Justice

ADM File No. 2016-04

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

Proposed Amendment of  
Rule 8.126 of the  
Michigan Court Rules

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On order of the Court, this is to advise that the Court is considering an amendment of Rule 8.126 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 8.126 Temporary Admission to the Bar

(A) Temporary Admission. Except as otherwise provided in this rule, an out of state attorney may seek temporary admission as determined in this subsection. Any person who is licensed to practice law in another state or territory, or in the District of Columbia, of the United States of America, or in any foreign country, and who is not disbarred or suspended in any jurisdiction, and who is eligible to practice in at least one jurisdiction, may be permitted to appear and practice in a specific case in a court, before an administrative tribunal or agency, or in a specific arbitration proceeding in this state when associated with and on motion of an active member of the State Bar of Michigan who appears of record in the case. An out-of-state attorney may be temporarily admitted to practice under this rule in no more than five cases in a 365-day period. Permission to appear and practice is within the discretion of the court, administrative tribunal or agency, or arbitrator and may be revoked at any time for misconduct. For purposes of this rule, an out-of-state attorney is one who is licensed to practice law in another state or territory, or in the District of Columbia, of the United States of America, or in a foreign country and who is not a member of the State Bar of Michigan.

(1) Procedure.

(a)-(d) [Unchanged.]

- (B) Waiver. An applicant is not required to associate with local counsel, limited to the number of appearances to practice, or required to pay the fee to the State Bar of Michigan, if the applicant establishes to the satisfaction of the court in which the attorney seeks to appear that:
- (1) the applicant appears for the limited purpose of participating in a child custody proceeding as defined by MCL 712B.3(b) in a Michigan court pursuant to the Michigan Indian Family Preservation Act, MCL 712B.1 *et seq.*;
  - (2) the applicant represents an Indian tribe as defined by MCL 712B.3; and
  - (3) the applicant presents an affidavit from the Indian child's tribe asserting the tribe's intent to intervene and participate in the state court proceeding, and averring the child's membership or eligibility for membership under tribal law; and
  - (4) the applicant presents an affidavit that verifies:
    - (a) the jurisdictions in which the attorney is or has been licensed or has sought licensure;
    - (b) the jurisdiction where the attorney is presently eligible to practice;
    - (c) that the attorney is not disbarred, or suspended in any jurisdiction, is not the subject of any pending disciplinary action, and that the attorney is licensed and is in good standing in all jurisdictions where licensed; and
    - (d) that he or she is familiar with the Michigan Rules of Professional Conduct, Michigan Court Rules, and the Michigan Rules of Evidence.
  - (5) If the court in which the attorney seeks to appear is satisfied that the out of state attorney has met the requirements in this subrule, the court shall enter an order authorizing the out of state attorney's temporary admission.

*Staff Comment:* The proposed amendment of MCR 8.126, submitted by the Michigan Tribal State Federal Judicial Forum, would waive fees and other requirements for out of state attorneys who seek temporary admission in Michigan. The exemption from certain requirements would apply only in cases in which the attorney desires to represent an Indian tribe intervening in a child custody proceeding.

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](mailto:ADMcomment@courts.mi.gov). When filing a comment, please refer to ADM File No. 2016-04. 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

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

Clerk