

**From:** Ronald Nixon <ron.nixon@kkue.com>  
**To:** "ADMcomment@courts.mi.gov" <ADMcomment@courts.mi.gov>  
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**Subject:** Proposed Amendment to MCR 7.215(C)

I concur wholeheartedly with Justice Markman's dissent regarding MCR 7.215(C).

While I try not to rely on unpublished opinions because they are not binding (and because the citations interfere with the flow of the brief and create additional exhibits), often they are the best statement of the law available even if they do not meet the standards for publication. One example that I recall is an opinion by the Court of Appeals a year ago that provides a great discussion of tortious interference and its wrongful element. See *Datam Mfg, LLC v Magna Powertrain USA, Inc*, unpublished opinion per curiam of the Court of Appeals, issued February 13, 2014 (Docket No. 306302), pp 2-5. There are many such first rate unpublished opinions, to borrow a concept from Justice Markman's dissent.

Moreover, I am not referring here to the diverse factual scenarios available in unpublished opinions that make it more likely to find a case on point because I am assuming the proposed rule would allow such a citation. If that is not what "directly related" means in the proposed rule, then an even stronger argument exists for scrapping it.

The only revision to MCR 7.215(C) that should be made is to remove the requirement for attaching unpublished opinions. Everyone has convenient access to them now, and less barriers exist to obtaining them than to electronically file the briefs that cite them.

Ronald S. Nixon (P57117)  
[Kemp Klein Logo no Law Firm - 38 percent]

201 W. Big Beaver Rd., Ste. 600  
Troy, MI 48084  
Tel: 248-619-2585  
Fax: 248-528-5129  
E-mail: ron.nixon@kkue.com<mailto:ron.nixon@kkue.com>  
Bio<<http://www.kempklein.com/attorneys/litigation-attorney-ronald-nixon.php>> /  
LinkedIn<<http://www.linkedin.com/pub/ronald-nixon/13/2b3/308/>>

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