

## **Select Michigan Court Rules Subchapter 7.300 Supreme Court**

### **Rule 7.301 Jurisdiction and Term**

(A) Jurisdiction. The Supreme Court may:

- (1) review a Judicial Tenure Commission order recommending discipline, removal, retirement, or suspension (see MCR 9.223-9.226);
- (2) review by appeal a case pending in the Court of Appeals or after decision by the Court of Appeals (see MCR 7.302);
- (3) review by appeal a final order of the Attorney Discipline Board (see MCR 9.122);
- (4) give an advisory opinion (see Const 1963, art 3, § 8);
- (5) respond to a certified question (see MCR 7.305);
- (6) exercise superintending control over a lower court or tribunal (see, e.g., MCR 7.304);
- (7) exercise other jurisdiction as provided by the constitution or by law.

(B) Term. The Court will hold an annual term beginning on August 1 and ending on July 31. At every term, the Court will announce a date after which it will not call cases for argument except pursuant to order on a showing of special cause. Except as provided in MCR 7.312(E), the end of a term has no effect on pending cases.

### **Rule 7.302 Application for Leave to Appeal**

(A) What to File. To apply for leave to appeal, a party must file:

- (1) 8 copies of an application for leave to appeal (one must be signed) consisting of the following:
  - (a) a statement identifying the judgment or order appealed from and indicating the relief sought;
  - (b) the questions presented for review related in concise terms to the facts of the case;
  - (c) a table of contents and index of authorities conforming to MCR 7.212(C)(2) and (3);
  - (d) a concise statement of the material proceedings and facts conforming to MCR 7.212(C)(6);

(e) a concise argument, conforming to MCR 7.212(C)(7), in support of the appellant's position on each of the stated questions;

(f) any opinion, findings, or judgment of the trial court relevant to the question as to which leave to appeal is sought;

(g) the opinion or order of the Court of Appeals, unless review of a pending case is being sought;

(2) A notice for hearing stating that the application will be submitted to the Court on a date which is on a Tuesday at least 21 days after the filing of the application;

(3) Proof that a copy of the application was served on all other parties, the Court of Appeals clerk, and the trial court clerk; and

(4) The fee provided by MCR 7.319(B)(7)(a).

(B) Grounds. The application must show that

(1) the issue involves a substantial question as to the validity of a legislative act;

(2) the issue has significant public interest and the case is one by or against the state or one of its agencies or subdivisions or by or against an officer of the state or one of its agencies or subdivisions in the officer's official capacity;

(3) the issue involves legal principles of major significance to the state's jurisprudence;

(4) in an appeal before decision by the Court of Appeals, delay in final adjudication is likely to cause substantial harm;

(5) in an appeal from a decision of the Court of Appeals, the decision is clearly erroneous and will cause material injustice or the decision conflicts with a Supreme Court decision or another decision of the Court of Appeals; or

(6) in an appeal from the Attorney Discipline Board, the decision is erroneous and will cause material injustice.

(C) When to File.

(1) Before Court of Appeals Decision. In an appeal before the Court of Appeals decision, the application must be filed within 28 days

- (a) after a claim of appeal is filed in the Court of Appeals;
- (b) after an application for leave to appeal is filed in the Court of Appeals; or
- (c) after entry of an order by the Court of Appeals granting an application for leave to appeal.

(2) Other Appeals. Except as provided in subrule (C)(4), in other appeals the application must be filed within 21 days

- (a) after the Court of Appeals clerk mails notice of an order entered by the Court of Appeals;
- (b) after the filing of the opinion appealed from; or
- (c) after the Court of Appeals clerk mails notice of an order denying a timely filed motion for rehearing.

(3) Later Application. A delayed application may be filed, if it is accompanied by an affidavit explaining the delay. However, a delayed application may not be filed more than 56 days after the Court of Appeals decision.

(4) Decisions Remanding for Further Proceedings. If the decision of the Court of Appeals remands the case to a lower court for further proceedings, an application for leave may be filed within 21 days after

- (a) the Court of Appeals decision ordering the remand, or
- (b) the Court of Appeals decision disposing of the case following the remand procedure, in which case an application may be made on all issues raised in the Court of Appeals, including those related to the remand question.

(5) Effect of Appeal on Decision Remanding Case. If a party appeals a decision which remands for further proceedings as provided in subrule (C)(4)(a), the following provisions apply:

- (a) If the Court of Appeals decision is a judgment under MCR 7.215(D)(1), a timely appeal stays proceedings on remand unless the Court of Appeals or the Supreme Court orders otherwise.
- (b) If the Court of Appeals decision is an order other than a judgment under MCR 7.215(D)(1), the proceedings on remand are not stayed by an application for leave to appeal

unless so ordered by the Court of Appeals or the Supreme Court.

(6) Orders Denying Motions to Remand. If the Court of Appeals has denied a motion to remand, the appellant may raise issues relating to that denial in an application for leave to appeal from the decision on the merits.

(D) Opposing Brief; Cross Appeal.

(1) Any party may file 8 copies of an opposing brief before the day the application is noticed for hearing. He or she must file proof that a copy of the brief was served on all other parties.

(2) An application for leave to appeal as cross appellant may be filed with the clerk by the date the appellant's application for leave is noticed for hearing or within 21 days after the appellant's application is filed, whichever is later. The application must comply with subrule (A).

(E) Emergencies. Any party may move for immediate consideration of a pending application by showing what injury would occur if usual procedures were followed. The motion or an accompanying affidavit must explain the manner of service of the motion on the other parties.

(F) Decision.

(1) Possible Court Actions. The Court may grant or deny the application, enter a final decision, or issue a preemptory order. There is no oral argument. The clerk shall issue the order entered and mail copies to the parties and to the Court of Appeals clerk.

(2) Appeal Before Court of Appeals Decision. If leave to appeal is granted, the appeal is thereafter pending in the Supreme Court only, and subchapter 7.300 applies.

(3) Appeal After Court of Appeals Decision. If leave to appeal is denied, the Court of Appeals decision becomes the final adjudication and may be enforced in accordance with its terms. If leave to appeal is granted, jurisdiction over the case is vested in the Supreme Court, and subchapter 7.300 applies.

(4) Issues on Appeal.

(a) Unless otherwise ordered by the Court, appeals shall be limited to the issues raised in the application for leave to appeal.

(b) On motion of any party, for good cause, the Court may grant a request to add additional issues not raised in the application for leave to appeal or in the order granting leave to appeal. Permission to brief and argue such additional issues does not extend the time for filing of briefs and appendixes.

(G) Stay of Proceedings. MCR 7.209 applies to appeals to the Supreme Court. When a stay bond has been filed on appeal to the Court of Appeals under MCR 7.209 or a stay has been entered, it operates to stay proceedings pending disposition of the appeal in the Supreme Court unless otherwise ordered by the Supreme Court or Court of Appeals.

### **Rule 7.304 Original Proceedings**

(A) When Available. A complaint may be filed in the Supreme Court to implement the Court's superintending control power when an application for leave to appeal cannot be filed. A complaint for mandamus may be filed to implement the Court's superintending control power over the Board of Law Examiners, the Attorney Discipline Board, or the Attorney Grievance Commission.

(B) What to File. To initiate an original proceeding, a plaintiff must file with the clerk:

- (1) 8 copies of a complaint;
- (2) 8 copies of a brief conforming as nearly as possible to MCR 7.212(C);
- (3) a notice of hearing, which must state that the complaint will be submitted to the Court on a date which is a Tuesday at least 21 days after the complaint is filed;
- (4) proof that a copy of the complaint and brief was served on the defendant; and
- (5) the fee provided by MCR 7.319(B)(7)(b).

Copies of documents, record evidence, or supporting affidavits may be attached as exhibits to the complaint. The complaint must be entitled:

"[Plaintiff] v [Court of Appeals, Board of Law Examiners, Attorney Discipline Board, or Attorney Grievance Commission],"

and the clerk is directed to re-entitle any papers otherwise entitled.

(C) Answer.

(1) The defendant must file 8 copies of an answer and a brief conforming with MCR 7.212(D) before the date the complaint is noticed for hearing. The defendant must serve 1 copy on the plaintiff and file proof of that service with the clerk.

(2) The grievance administrator's answer to a complaint for mandamus against the Attorney Grievance Commission must show the investigatory steps taken and other pertinent information.

(D) Actions Against Attorney Grievance Commission; Confidentiality. The clerk shall keep the file in an action against the Attorney Grievance Commission or the grievance administrator confidential and not open to the public if it appears that the complaint relates to matters that are confidential under MCR 9.126. In the answer to a complaint, the grievance administrator shall certify to the clerk whether the matters involved in the action are deemed confidential under MCR 9.126. The protection provided by MCR 9.126 continues, unless the Court otherwise orders.

(E) Decision. There is no oral argument on the complaint. The Court may set the case for argument as on leave granted, grant or deny the relief requested, or enter another order it finds appropriate, including an order to show cause why the relief sought in the complaint should not be granted.

### **Rule 7.305 Certified Questions**

(A) From Michigan Courts.

(1) Whenever a court or tribunal from which an appeal may be taken to the Court of Appeals or to the Supreme Court has pending before it an action or proceeding involving a controlling question of public law, and the question is of such public moment as to require early determination according to executive message of the Governor addressed to the Supreme Court, the Supreme Court may authorize the court or tribunal to certify the question to the Supreme Court with a statement of the facts sufficient to make clear the application of the question. Further proceedings relative to the case are stayed to the extent ordered by the court or tribunal, pending receipt of an answer from the Supreme Court.

(2) If any question is not properly stated, or if sufficient facts are not given, the Supreme Court may require a further and better statement of the question or of the facts.

(3) The answer to a certified question is given by the Supreme Court in the ordinary form of an opinion, to be published with other opinions of the Supreme Court.

(4) After the answer of the Supreme Court has been sent, the court or tribunal will proceed with or dispose of the case in accordance with the Supreme Court's answer.

(B) From Other Courts.

(1) When a federal court or state appellate court considers a question that Michigan law may resolve and that is not controlled by Michigan Supreme Court precedent, the court may on its own initiative or that of an interested party certify the question to the Michigan Supreme Court.

(2) A certificate may be prepared by stipulation or at the certifying court's direction, and must contain

- (a) the case title;
- (b) a factual statement; and
- (c) the question to be answered.

The presiding judge must sign it, and the clerk must certify it under seal.

(3) With the certificate, the parties shall submit

- (a) briefs conforming with MCR 7.306 and 7.309;
- (b) a joint appendix conforming with MCR 7.307, 7.308, and 7.309; and
- (c) a request for oral argument, if oral argument is desired.

(4) If the Supreme Court responds to the question certified, the clerk shall send a copy to the certifying court under seal.

(5) The Supreme Court shall divide costs equally among the parties, subject to redistribution by the certifying court.

**Rule 7.306 Briefs in Calendar Cases**

(A) Form of Briefs. Briefs in calendar cases must be prepared in the form provided in MCR 7.212(C) and (D) and produced as provided in MCR 7.309. For the purposes of this rule, references in MCR 7.212(C) and (D) to the "record" should be read as referring to the appendix.

(B) Length of Brief; Summary of Argument. In a brief in which the argument of any one issue exceeds 20 pages, a summary of argument must be included. The summary must be a succinct, accurate, and clear condensation of the argument actually made in the body of the brief and may not be a mere repetition of the headings under which the argument is arranged. Unless the Court allows a longer brief, a brief prepared in the

manner authorized under MCR 7.309 may not exceed 50 pages if printed on 6-1/4 by 9-1/4 inch paper or, if on 8-1/2 by 11 inch paper, may not exceed 60 pages, excluding the table of contents, index of authorities, and appendix, but including the summary of argument.

(C) Amicus Curiae Briefs. An amicus curiae brief may be filed only on motion granted by the Court and must conform to subrules (A) and (B) and MCR 7.309. The time for filing the brief corresponds with the time for filing the brief of the party whose position the amicus curiae supports. An amicus curiae may not participate in oral argument except by Court order.

### **Rule 7.313 Motions in Supreme Court**

(A) What to File. To have a motion heard, a party must file with the clerk:

- (1) a motion stating briefly but distinctly the grounds on which it is based and the relief required;
- (2) an affidavit supporting any allegations of fact in the motion;
- (3) a notice that the motion will be heard on a Tuesday at least 7 days after the motion is filed;
- (4) the fee provided by MCR 7.319(B)(7)(c); and
- (5) proof that the motion and supporting papers were served on the opposing party.

Eight copies of the motion must be filed, except only 2 copies need be filed of a motion to extend time, to place a case on or withdraw a case from the session calendar, or for oral argument. The attorney must sign the motion. By filing a motion for immediate consideration, a party may obtain an earlier hearing on the motion.

(B) Motion Day. Tuesday of each week is motion day. There is no oral argument on motions, unless ordered by the Court.

(C) Answer. An answer may be filed at any time before an order is entered on the motion.

(D) Motion for Rehearing.

- (1) To move for rehearing, a party must file within 21 days after the opinion was filed (the date of an opinion is stamped on the upper right corner of the first page):



(a) 24 copies of a motion prepared as provided in MCR 7.309, if the opinion decided a case placed on a session calendar; or

(b) 14 typewritten copies of a motion, if the opinion decided a noncalendar case; and

(c) proof that a copy was served on the parties.

The motion for rehearing must include reasons why the Court should modify its opinion.

(2) Unless otherwise ordered by the Court, timely filing of a motion postpones issuance of the Court's judgment order until the motion is denied by the Court or, if granted, until at least 21 days after the filing of the Court's opinion on rehearing.

(3) Any party may answer a motion within 14 days after it is served by filing

(a) 24 or 14 copies of the motion, depending on whether the motion was filed under subrule (D)(1)(a) or (b); and

(b) proof that a copy was served on the other parties.

(4) Unless ordered by the Court, there is no oral argument.

(E) Motion for Reconsideration. To move for reconsideration of a court order, a party must file the items required by subrule (A) within 21 days after the date of certification of the order. The clerk shall refuse to accept for filing any motion for reconsideration of an order denying a motion for reconsideration. The filing of a motion for reconsideration does not stay the effect of the order addressed in the motion.

### **Rule 7.315 Call and Argument of Cases in Supreme Court**

(A) Call; Notice of Argument; Withdrawal From Call. The Court, on the first day of each session, will call the cases for argument in the order they stand on the calendar as arranged, and proceed from day to day during the session in the same order. A case may not be withdrawn after being placed on the call, except on a showing of extreme emergency. A case may be submitted on briefs by stipulation at any time.

(B) Argument. In a calendar case, the time allowed for argument is 30 minutes for each side. When only one side is represented, only 15 minutes is allowed. The time for argument may be extended by the Court on motion filed at least 14 days before the session begins or by the Chief Justice during the argument. Oral argument should emphasize and clarify the written argument appearing in the

brief filed. The Court looks with disfavor on an argument that is read from a prepared text.

**Rule 7.317 Opinions, Orders, and Judgments of Supreme Court**

(A) Opinions of Court. An opinion must be written and bear the writer's name or the label "per curiam." Each justice deciding a case must sign an opinion.

(B) Filing and Publication. The Court shall file a signed opinion with the clerk, who shall stamp the date of filing on it. The Supreme Court reporter of decisions is responsible for having the opinions printed, in a form and under a contract approved by the Court. (C) Orders or Judgments Pursuant to Opinions.

(1) Entry. The clerk shall enter an order or judgment pursuant to an opinion as of the date the opinion is filed with the clerk.

(2) Routine Issuance.

(a) If a motion for rehearing is not timely filed under MCR 7.313(D)(1), the clerk shall send a certified copy of the order or judgment to the Court of Appeals with its file, and to the court or tribunal which tried the case with its record, not less than 21 days nor more than 28 days after entry of the order or judgment.

(b) If a motion for rehearing is timely filed, the clerk shall fulfill the responsibilities under subrule (C)(2)(a) promptly after the Court denies the motion or, if the motion is granted, enter a new order or judgment after the Court's opinion on rehearing.

(3) Exceptional Issuance. The Court may direct the clerk to dispense with the time requirement of subrule (C)(2)(a) and issue the order or judgment when its opinion is filed. An order or judgment issued under this subrule does not preclude the filing of a motion for rehearing, but the filing of a motion does not stay execution or enforcement.

(4) Execution or Enforcement. Unless otherwise ordered by the Court, an order or judgment is effective when it is issued under subrule (C)(2)(a) or (b) or (C)(3), and enforcement is to be obtained in the trial court.

(D) Entry, Issuance, Execution, and Enforcement of Other Orders and Judgments of Court. An order or judgment, other than those by opinion under subrule (C), is entered on the date of filing. Unless otherwise stated, an order or judgment is

effective the date it is entered. The clerk must promptly send a certified copy to each party, to the Court of Appeals, and to the lower court or tribunal.

**Rule 7.323 Selection of Chief Justice**

At the first meeting of the Supreme Court in each odd-numbered year, the justices shall select by majority vote one among them to be Chief Justice.

**Rule 8.110 Chief Judge Rule**

(A) Applicability. This rule applies to all trial courts: i.e., the judicial circuits of the circuit court, the districts of the district court, the probate court in each county or a probate district established by law, and the municipal courts.

(B) Chief Judge, Chief Judge Pro Tempore, and Presiding Judges of Divisions.

(1) The Supreme Court shall select a judge of each trial court to serve as chief judge. No later than October 1 of each odd-numbered year, each trial court with two or more judges may submit the names of no fewer than two judges whom the judges of that court recommend for selection as chief judge.

(2) Unless a chief judge pro tempore or presiding judge is named by the Supreme Court, the chief judge shall select a chief judge pro tempore and a presiding judge of any division of the trial court. The chief judge pro tempore and any presiding judges shall fulfill such functions as the chief judge assigns.

(3) The chief judge, chief judge pro tempore, and any presiding judges shall serve a two-year term beginning on January 1 of each even-numbered year, provided that the chief judge serves at the pleasure of the Supreme Court and the chief judge pro tempore and any presiding judges serve at the pleasure of the chief judge.

(4) Where exceptional circumstances exist, the Supreme Court may appoint a judge of another court to serve as chief judge of a trial court.

(C) Duties and Powers of Chief Judge.

(1) A chief judge shall act in conformity with the Michigan Court Rules, administrative orders of the Supreme Court, and local court rules, and should freely solicit the advice and suggestions of the other judges of his or her bench and geographic jurisdiction. If a local court management council has adopted the by-laws described in AO 1997-6 the chief judge shall exercise the authority and responsibilities under this rule in conformity with the provisions of AO 1997-6.

(2) As the presiding officer of the court, a chief judge shall:

- (a) call and preside over meetings of the court;
- (b) appoint committees of the court;
- (c) initiate policies concerning the court's internal operations and its position on external matters affecting the court;
- (d) meet regularly with all chief judges whose courts are wholly or partially within the same county;
- (e) represent the court in its relations with the Supreme Court, other courts, other agencies of government, the bar, the general public, and the news media, and in ceremonial functions; and
- (f) counsel and assist other judges in the performance of their responsibilities.

(3) As director of the administration of the court, a chief judge shall have administrative superintending power and control over the judges of the court and all court personnel with authority and responsibility to:

- (a) supervise caseload management and monitor disposition of the judicial work of the court;
- (b) direct the apportionment and assignment of the business of the court, subject to the provisions of MCR 8.111;
- (c) determine the hours of the court and the judges; coordinate and determine the number of judges and court personnel required to be present at any one time to perform necessary judicial administrative work of the court, and require their presence to perform that work;
- (d) supervise the performance of all court personnel, with authority to hire, discipline, or discharge such personnel, with the exception of a judge's secretary and law clerk, if any;
- (e) coordinate judicial and personnel vacations and absences, subject to the provisions of subrule (D);
- (f) supervise court finances, including financial planning, the preparation and presentation of budgets, and financial reporting;

(g) request assignments of visiting judges and direct the assignment of matters to the visiting judges;

(h) effect compliance by the court with all applicable court rules and provisions of the law; and

(i) perform any act or duty or enter any order necessarily incidental to carrying out the purposes of this rule.

(4) If a judge does not timely dispose of his or her assigned judicial work or fails or refuses to comply with an order or directive from the chief judge made under this rule, the chief judge shall report the facts to the state court administrator who will, under the Supreme Court's direction, initiate whatever corrective action is necessary.

(5) The chief judge of the court in which criminal proceedings are pending shall have filed with the state court administrator a monthly report setting forth the reasons for delay in the proceedings:

(a) in felony cases in which there has been a delay of 28 days between the hearing on the preliminary examination or the date of the waiver of the preliminary examination and the arraignment on the information or indictment;

(b) in felony cases in which there has been a delay of 6 months between the date of the arraignment on the information or indictment and the beginning of trial;

(c) in misdemeanor cases in which there has been a delay of 6 months between the date of the arraignment on the warrant and complaint and the beginning of the trial;

(d) in felony cases in which a defendant is incarcerated longer than 6 months and in misdemeanor cases in which a defendant is incarcerated longer than 28 days.