

Order

Michigan Supreme Court
Lansing, Michigan

November 5, 2021

Bridget M. McCormack,
Chief Justice

ADM File No. 2019-16

Proposed Amendment of
Rule 7.212 of the Michigan
Court Rules

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh
Elizabeth M. Welch,
Justices

On order of the Court, this is to advise that the Court is considering an amendment of Rule 7.212 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 will also be considered at a public hearing. The notices and agendas for public hearing are posted on the [Public Administrative Hearings](#) 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 7.212 Briefs

(A) Time for Filing and Service.

(1) Appellant's Brief.

(a) Filing. The appellant must~~shall~~ file ~~5 typewritten, xerographic, or printed copies of~~ a brief with the Court of Appeals within

(i)-(iii) [Unchanged.]

(b) Service. The appellant~~Within the time for filing the appellant's brief,~~ ~~1 copy~~ must serve the brief~~be served~~ on all other parties to the appeal and file ~~proof of that service filed with the Court of Appeals and served~~ with the brief.

(2) Appellee's Brief.

(a) Filing. The appellee may~~shall~~ file ~~5 typewritten, xerographic, or printed copies of~~ a brief with the Court of Appeals within

(i)-(ii) [Unchanged.]

(b) Service. ~~An appellee's brief~~ Within the time for filing the appellee's brief, 1 copy must be served on all other parties to the appeal and proof of that service must be filed with the ~~brief~~ Court of Appeals.

(3) ~~Earlier Filing and Service.~~ The time for filing and serving the appellant's or the appellee's brief may be shortened by order of the Court of Appeals on motion showing good cause.

(4) Late Filing. Any party failing to timely file ~~and serve a brief~~ underrequired by this rule forfeits the right to oral argument.

(5) [Unchanged.]

(B) Length and Form of Briefs. ~~Except as permitted by order of the Court of Appeals, and except as provided in subrule (G), briefs are limited to 50 pages double spaced, exclusive of tables, indexes, and appendixes. Quotations and footnotes may be single spaced. At least one inch margins must be used, and printing shall not be smaller than 12 point type. A motion for leave to file a brief in excess of the page limitations of this subrule must be filed by the due date of the brief and shall accompany the proposed brief. Such motions are disfavored and will be granted only for extraordinary and compelling reasons. If the motion is denied, the movant shall file a conforming brief within 21 days after the date of the order deciding the motion.~~

(1) Except as otherwise provided in this rule or by court order, briefs are limited to no more than 16,000 words. A self-represented party who does not have access to a word-processing system may file a typewritten or legibly handwritten brief of not more than 50 pages.

(2) The elements of a brief listed in subrules (C)(1)-(5) and (10) are not included in the word or page limit, but footnotes and text contained in embedded graphics are included.

(3) A brief filed under the word limitation of this subrule must include a statement after the signature block stating the number of countable words. The filer may rely on the word count of the word-processing system used to prepare the brief.

(4) A motion for leave to file a brief in excess of the word or page limitations must be filed by the due date of the brief and must accompany the proposed brief. Such motions are disfavored and will be granted only for extraordinary

and compelling reasons. If the motion is denied, the movant must file a conforming brief within 21 days after the date of the order deciding the motion.

- (5) Briefs must have at least one-inch page margins, 12-point font, and double-spaced text, except quotations and footnotes may be single-spaced.

(C)-(E) [Unchanged.]

- (F) Supplemental Authority. Without leave of court, a party may file ~~an original and four copies of~~ a one-page communication, titled “supplemental authority,” to call the court’s attention to new authority released after the party filed its brief. Such a communication,

(1)-(3) [Unchanged.]

- (G) Reply Briefs. ~~An appellant or a cross-appellant may reply to the brief of an appellee or cross-appellee w~~Within 21 days after service of an~~the brief of the appellee’s or cross-appellee’s brief, appellant or cross-appellant may file a reply brief. Reply~~briefs must be confined to rebuttal of the arguments in the appellee’s or cross-appellee’s brief, and must be limited to 10 pages, exclusive of tables, indexes, and appendices, and must include a table of contents and an index of authorities. No additional or supplemental briefs may be filed except as provided by subrule (F) or by leave of the Court. Reply briefs are limited to no more than 3,200 words, but are otherwise governed by subrule (B). A self-represented party who does not have access to a word-processing system may file a typewritten or legibly handwritten reply brief of not more than 10 pages.

(H)-(J) [Unchanged.]

Staff Comment: The proposed amendment of MCR 7.212 would require appellate briefs to be formatted for optimized reading on electronic displays.

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 submitted by March 1, 2022 by clicking on the

“Comment on this Proposal” link under this proposal on the [Court’s Proposed & Adopted Orders on Administrative Matters](#) page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2019-16. Your comments and the comments of others will be posted under the chapter affected by this proposal.



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 5, 2021

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

Clerk