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Date: 03/29/2023

ADM File Number: 2021-35

Comment:

PROPOSED COURT RULE AMENDMENT (Rule 7.2020 and 7.209)

Michigan Supreme Court Order (ADM File No. 2021-35)

Justices,

The proposed amendment to the Michigan Rules of the Court is ill-conceived and if adopted, will waste valuable court time and resources. A governmental immunity claim should be resolved through the trial court and the appeals process prior to moving ahead with a trial on the merits of a lawsuit.

Adoption of this amendment would mean that potentially unnecessary discovery will commence. There is likely to be increased pressure on governmental entities to settle frivolous claims rather than spend resources on the discovery process. The predictable result of this pressure is more and more frivolous claims against the governmental party.

Additionally, the potential to have a trial court award claims to a plaintiff and then have an appeals court rule that governmental immunity applies and void that award would undermine public confidence in the Michigan courts, as it would appear that the appeals court is "covering" for the governmental party.

Michigan courts should remain with the current rules for claims of governmental immunity, following the example of the federal courts.

Thank you.