



March 30, 2023

Mr. Larry Royster  
Chief of Staff/Clerk of the Court  
Michigan Supreme Court  
Lansing, MI 48909

Re: Comments on Proposed Amendment to MCR 7.202 and MCR 7.209  
ADM File No. 2021-35

Dear Mr. Royster:

We are offering these comments to the proposed amendments to MCR 7.202 and MCR 7.209 on behalf of the Michigan Municipal League and the Michigan Municipal League Liability & Property Pool.

The Michigan Municipal League is dedicated to making Michigan's communities better by thoughtfully innovating programs, energetically connecting ideas and people, actively serving members with resources and services, and inspiring positive change for Michigan's greatest centers of potential: its communities. The Michigan Municipal League proactively represents municipalities in order to help them sustain highly livable, desirable, and unique places within the state. The League creates and offers services and events to its members to help educate and inspire them to remain focused on their passion for the citizens they represent. Since the League's founding in 1899, its mission has been to advocate and work for change for better communities and a better Michigan. League members are Michigan cities, villages, and urban townships as well as several affiliate organizations.

The Michigan Municipal League Liability & Property Pool is a non-profit self-insurance pool owned and governed by its members. The Pool provides comprehensive property, general liability, auto liability, public officials' liability insurance, and related services to over 400 Michigan cities, villages, townships, and other public entities. The mission of the Pool is to provide a long-term, stable, cost-effective insurance alternative for members and associate members of the Michigan Municipal League, helping it to fulfill its members' essential need for stability and security.

### **Background of Governmental Immunity**

"Sovereign immunity is an ancient common-law concept that predates the statehood of Michigan by centuries."<sup>1</sup> However, "[o]ver the years, by judicial construction, this 'sovereign' immunity has been transmogrified into 'governmental' immunity and made applicable to the 'inferior' divisions of government, i.e., townships, school districts, villages,

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<sup>1</sup> *Ross v Consumers Power Co (On Rehearing)*, 420 Mich 567, 597, 363 NW2d 641, 650 (1984).

cities, and counties ...”<sup>2</sup> This Court invalidated immunity for municipal corporations, but upheld immunity for the State in *Williams v Detroit*,<sup>3</sup> and *McDowell v. State Highway Comm’r*.<sup>4</sup> In response, the Legislature enacted the governmental immunity act of 1964. In *Maki v. East Tawas*,<sup>5</sup> the Supreme Court affirmed the Court of Appeals’ determination that the governmental immunity act was unconstitutional because it violated the title-object clause of the Michigan Constitution.<sup>6</sup> During the pendency of the case before the Supreme Court the Legislature amended the title of the governmental immunity act to remedy the constitutional deficiency.

This Court issued its decision in *Ross v Consumers Power Co, (On Rehearing)*, on January 22, 1985. The *Ross* decision undertook a review of the entire governmental immunity act and announced six distinct holdings.<sup>7</sup> That decision formed the foundation for the amendments to the current iteration of the governmental immunity act.<sup>8</sup> As this Court explained in *Ross*, the doctrine of individual immunity survived the abolition of common-law governmental immunity in the *Williams* decision.<sup>9</sup> The Court quoted from Justice Edwards’ opinion in *Williams*:

The people place great powers of decision making in the hands of their government. In the exercise of discretionary power, governmental duty runs to the benefit of the whole public, rather than to individuals. It is of great importance that this crucial function of democratic decision making be unhampered by litigation.<sup>10</sup>

The phrase “unhampered by litigation” echoes the rationale identified by the United States Supreme Court for allowing immediate appeals of denials of qualified immunity in cases brought under 42 USC § 1983:

[T]he *Harlow* Court refashioned the qualified immunity doctrine in such a way as to “permit the resolution of many insubstantial claims on summary judgment” and **to avoid “subject[ing] government officials either to the costs of trial or to the burdens of broad-reaching discovery”** in cases where the legal norms the officials are alleged to have violated were not clearly established at the time. *Id.*, at 817–818, 102 S.Ct., at 2737–2738. Unless the plaintiff’s allegations state a claim of violation of clearly established law, a defendant pleading qualified immunity is entitled to dismissal before the

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<sup>2</sup> *Id.* quoting *Myers v Genesee County Auditor*, 375 Mich 1, 6, 8 – 9, 133 NW2d 190 (1965) (Opinion by O’Hara).

<sup>3</sup> 364 Mich 231, 111 NW2d 1 (1961).

<sup>4</sup> 365 Mich 268, 112 NW2d 491 (1961).

<sup>5</sup> 385 Mich 151, 188 NW2d 593 (1971).

<sup>6</sup> Const 1963, art 4, § 24.21

<sup>7</sup> 420 Mich 567 at 591 – 592, 363 NW2d 641 at 647.

<sup>8</sup> MCL 691.1401, *et seq*

<sup>9</sup> *Ross*, 420 Mich at 627, 363 NW2d at 665.

<sup>10</sup> *Id* at 628, 363 NW2d at 665.

commencement of discovery. *See id.*, at 818, 102 S.Ct., at 2738. Even if the plaintiff's complaint adequately alleges the commission of acts that violated clearly established law, the defendant is entitled to summary judgment if discovery fails to uncover evidence sufficient to create a genuine issue as to whether the defendant in fact committed those acts. *Harlow* thus recognized **an entitlement not to stand trial or face the other burdens of litigation**, conditioned on the resolution of the essentially legal question whether the conduct of which the plaintiff complains violated clearly established law. **The entitlement is an immunity from suit rather than a mere defense to liability; and like an absolute immunity, it is effectively lost if a case is erroneously permitted to go to trial.**<sup>11</sup>

It is against this backdrop that the Supreme Court adopted the amendments to MCR 7.202 and MCR 7.209 effective September 1, 2002 that are now under reconsideration.

### **September 1, 2002 Amendments to MCR 7.202 and 7.209**

In 2001 this Court proposed changes to MCR 7.202 that included defining a "final order" as an order denying governmental immunity to a governmental party, including a governmental agency, official, or employee. The proposed change to MCR 7.209 added a provision for an automatic stay of proceedings during the pendency of the appeal. The Court published the proposed changes and sought public comment. At that time the Attorney General for the State of Michigan was Jennifer Mulhern Granholm. As the Court is certainly aware, Ms. Granholm was subsequently elected to serve two terms as the Governor of the State of Michigan and currently serves as Secretary of Energy in President Biden's Cabinet. On August 3, 2001, General Granholm's office filed comments in support of the proposed amendments. (**Exhibit 1**).

On June 4, 2002, the proposed amendments were adopted, effective September 1, 2002.

### **December 21, 2022 Order re: Proposed Amendment to MCR 7.202 and MCR 7.209**

On December 21, 2022 this Court published an Order – ADM File No. 2021-35 – seeking public comment on possible amendments to MCR 7.202 and MCR 7.209. The proposed amendments would remove an order denying governmental immunity as a "final order," which would have the practical effect of disallowing appeals of right from denials of governmental immunity. The proposed amendment to MCR 7.209 would remove the automatic stay provision of MCR 7.209(E)(7). No rationale has been offered for the proposed amendments by the Court.

The staff comment simply states that the proposed amendments "offer an alternative to the proposal published for comment on June 22, 2022." Again, the staff comment offered

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<sup>11</sup> *Mitchell v Forsyth*, 472 US 511, 526, 105 S Ct 2806, 2815, 86 L Ed 2d 411 (1985) (emphasis added).

no rationale for the proposed amendment. The reference to the June 22, 2022 Order is noteworthy because that proposed amendment would have actually expanded the scope of MCR 7.202 to include “tribal government” within the definition of governmental immunity. (Exhibit 2).

Justice Cavanagh stated in her concurrence: “Stated broadly, the issue the Court needs to consider is whether, in practical application, these rules have struck the proper balance between protecting taxpayers from the expense of unnecessary litigation and ensuring prompt and efficient resolution of claims against governmental entities **that are not barred by governmental immunity.**” (Emphasis added). Respectfully, that calculus is incomplete. Protecting taxpayers from the expense of unnecessary litigation is accomplished by “ensuring the prompt and efficient resolution of claims against governmental entities **that are barred by governmental immunity.**” That is precisely what the current iteration of MCR 7.202 and MCR 7.209 accomplishes by allowing immediate appeals of denials of motions for summary disposition based on governmental immunity and a concurrent stay of proceedings.

### **Response to Issues Raised by Justice Cavanagh**

Justice Cavanagh posed several questions in her concurrence and invited public comment on those questions. The answers to those questions will demonstrate the current version of MCR 7.202 and MCR 7.209 fulfills the goal of protecting taxpayers from the expense of unnecessary litigation by ensuring the prompt and efficient resolution of claims that are barred by governmental immunity. In considering these questions this Court’s repeated admonition regarding governmental immunity must be borne in mind: “[O]ne basic principle ... must guide our decision today: the immunity conferred upon governmental agencies is broad, and the statutory exceptions thereto are to be narrowly construed.”<sup>12</sup>

### **Efficacy of Applications for Leave to Appeal**

The first issue Justice Cavanagh identifies is the efficacy of applications for leave to appeal as an alternative to an appeal of right from a denial of governmental immunity. “In the absence of MCR 7.202(6)(a)(v) and MCR 7.209(E)(7), would the ability to file an application for leave to appeal ... adequately protect a governmental entity’s interest in the swift dismissal of claims barred by governmental immunity?” In a word, the answer to this question is “no.”

Unfortunately, the Court of Appeals does not publish statistics regarding the number of applications for leave to appeal that are filed in a given year, the number of applications granted, or the final disposition of those cases. Therefore, the response to this question is difficult – if not impossible – to answer with empirical data. An informal survey of appellate specialists throughout the State as well as attorneys who handle their own appeals leads to the conclusion that less than 10% of applications for leave to appeal are granted by the Court

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<sup>12</sup> *Yono v Dep’t of Transportation*, 499 Mich 636, 656, 885 NW2d 445, 455 (2016), quoting *Nawrocki v Macomb County Rd Comm’n*, 463 Mich 143, 158, 615 NW2d 702 (2000).

of Appeals. Again, while there are no published statistics on the subject, it is evident that not all dispositions of applications for leave to appeal that are granted are decided in favor of the applicant. As will be discussed in greater detail in response to the fourth question identified by Justice Cavanagh, the Court of Appeals statistics reveal that almost half of appeals from denials of governmental immunity are decided in favor of the defendant; in other words, nearly half of trial court denials of governmental immunity are reversed on appeal.

If governmental defendants are forced to rely on applications for leave to appeal to remedy improper denials of governmental immunity, they will be successful in avoiding the expense and disruptive effect of unnecessary litigation in a very small percentage of cases. The application for leave to appeal is an illusory alternative in practice.

### **Ease of Application of MCR 7.202(6)(a)(v)**

Justice Cavanagh's concurrence identifies a handful of cases where the question of appellate jurisdiction has been raised. (Footnote 4). These cases are outliers and do not reflect a prevalent issue. The language of MCR 7.202(6)(a)(v) is straightforward. A final order means "an order denying governmental immunity to a governmental party ... under MCR 2.116(C)(7) or an order denying a motion for summary disposition under MCR 2.116(C)(10) based on a claim of governmental immunity."

Under this Court's precedents, the defendant "bears the burden 'to raise and prove his entitlement to governmental immunity as an affirmative defense.'"<sup>13</sup> In order to seek summary disposition based on governmental immunity, the defendant must raise the defense then satisfy the necessary elements of the defense. There is no subtlety or nuance involved in asserting the defense. One raises the defense, or one does not. Similarly, the trial court either grants the motion based on the defense of governmental immunity or denies the motion. In the overwhelming majority of cases, jurisdiction is simply not a point of contention or confusion.

### **Expenditure of Resources**

Justice Cavanagh's third question asks whether MCR 7.202(6)(a)(v) and MCR 7.209(E)(7) have actually resulted in expedited resolution of claims barred by immunity and a decreased cost to taxpayers. As will be discussed in greater detail in response to the next question, the simple answer to this question is "yes." Almost half of denials of governmental immunity have been reversed on appeal to the Court of Appeals. That represents an expedited resolution of cases as compared to a denial of an application for leave to appeal (which will become a *de rigueur* step in the litigation process), the complete discovery process, pre-trial proceedings, a trial, and then an appeal of the denial of governmental immunity. One can assume the statistics will hold true and roughly half of those cases will ultimately be reversed and the claims against the defendant dismissed based on

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<sup>13</sup> *Janetsky v County of Saginaw*, \_\_\_ Mich \_\_\_, 982 NW2d 374, 375 (2022), quoting *Odom v Wayne County*, 482 Mich 459, 480, 760 NW2d 217 (2008).

governmental immunity. All the time, money, and resources expended by both defendant and plaintiff after the initial improper denial of governmental immunity will have been wasted.

The other aspect of this issue is the impact on the trial courts. If denials of governmental immunity motions are no longer appealable as a matter of right, each of those cases will take up the time and resources of one of the State's trial courts. If a trial court erroneously denies governmental immunity, the defendant will have little choice but to proceed through litigation, including trial, to obtain a final, appealable order. That entire process will have been completely unnecessary and wasted if the Court of Appeals ultimately rules the defendant's motion for summary disposition should have been granted in the first instance. The right to an immediate appeal actually conserves the resources of defendants, plaintiffs, and the trial courts.

It is impossible to quantify the amount of taxpayer savings that has been realized by the right to an immediate appeal of denial of governmental immunity. It is equally impossible to quantify how much additional cost will be foisted upon governmental entities (and ultimately the taxpayer) if the right to an immediate appeal is revoked. But common sense and logic leads to the inescapable conclusion the savings have been monumental, and the prospect of imposing those costs in the future poses a significant risk to the public fisc.

### **Frequency of Reversal of Denials of Governmental Immunity on Appeal**

While Justice Cavanagh has placed this question fourth on her list, it is perhaps the most important question posed.

We have surveyed the Court of Appeals decisions addressing appeals from denials of governmental immunity for the ten-year period January 1, 2013 through February 2022. We identified 304 cases decided by the Court of Appeals. (**Exhibit 3**).

The attached table includes relevant information about every case that the Court of Appeals decided from 2013 through February 2023 that was initially taken from an order denying governmental immunity. The data was compiled using the "Advanced Search" feature of the "Cases, Opinions & Orders" search of the Michigan Courts' webpage. The table includes all opinions issued by the Court of Appeals between 2013 and February 2023 that were assigned the case type "Summary Disposition Denied – Gov'tal Immunity." The final disposition of each case was recorded using the language stated in the search results (e.g., Affirmed, Vacated, and Remanded). Each case opinion a reversal or partial reversal by the Court of Appeals of a lower court's order was reviewed to ascertain whether or not the Court of Appeals reversal was based specifically on governmental immunity grounds.

From 2013 to February 2023, the Court of Appeals decided 303 cases, which were assigned the case type "Summary Disposition Denied – Gov'tal Immunity." In 138 of 303 cases (45.5%), the Court of Appeals reversed or partially reversed a lower court's denial of

summary disposition based on governmental immunity grounds.<sup>14</sup> Furthermore, the Court of Appeals reversed or partially reversed a lower court order denying summary disposition on other grounds (i.e., qualified immunity, ripeness, notice, etc.) or declined to specifically address governmental immunity in 25 cases.

This reversal rate is significantly higher than the norm. An analysis of data from 2010 through 2019 published by the Court of Appeals Information Systems Division found the reversal rate for all appeals to be 23%.<sup>15</sup> Thus, the right to an appeal of right from the denial of summary disposition based on governmental immunity has been effective for its intended purpose.

### **Unmeritorious Appeals/Gamesmanship**

In both the fourth and fifth points raised by Justice Cavanagh, the issue of unmeritorious appeals and gamesmanship – including intentional delay – is raised. Justice Cavanagh writes: “For example, as had been suggested, have governmental entities been filing unmeritorious claims of appeal simply to delay proceedings and increase litigation costs to plaintiffs ...” The source of such a suggestion is not identified.

The current appellate rules provide a remedy for an unmeritorious appeal. MCR 7.211(C)(3) allows an appellee to file a motion to affirm after the appellant’s brief has been filed on the basis that (a) the questions sought to be reviewed are so unsubstantial as to need no argument or formal admission, or (b) the question sought to be reviewed was not timely or properly raised. If an appeal is “barred by binding precedent,” a motion to affirm will dispose of the appeal.

The current rules also provide a remedy for an appeal taken for purposes of hinderance or delay. MCR 7.216(C)(1)(a) provides that the Court of Appeals may assess actual and punitive damages or take other disciplinary action when it determines that an appeal was taken for purposes of hinderance and delay or without any reasonable basis for belief that there was a meritorious issue to be determined on appeal.<sup>16</sup> In over 300 cases where the issue of sanctions under the rule was raised, the Court of Appeals has not imposed sanctions against any governmental defendant for filing a vexatious appeal from the denial of summary disposition based on governmental immunity.

Finally, every attorney practicing in Michigan has an ethical obligation to “not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis for

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<sup>14</sup> An analysis of appeals decided from 2018 through 2022 by the Michigan Association of Municipal Attorneys (MAMA) revealed a reversal rate of 51% for that timeframe. The MAMA analysis is more fully explained in a submission to this Court by that organization.

<sup>15</sup> Shannon & Gerville-Reache, Michigan Appellate Handbook, § 1.20 and Ex1.1 (ICLE, 2021 Update).

<sup>16</sup> MCR 7.211(C)(8) requires a request for sanctions or other disciplinary action to be filed by separate motion seeking the specified relief.

doing so that is not frivolous.”<sup>17</sup> Moreover, MCR 1.109(E)(5)(c) provides that the signature of an attorney on a document filed with the court certifies that “the document is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.” The Court should not presume attorneys representing governmental defendants will violate these ethical obligations.

There is no demonstrable basis to suggest, let alone conclude, that appeals from denials of motions for summary disposition based on governmental immunity have been taken for purposes of gamesmanship or delay.

### **Other Jurisdictions**

We have completed a survey of how this issue is addressed by the other 49 states and the District of Columbia. (**Exhibit 4**). Based on that review, 17 other jurisdictions allow appeals of right from denials of immunity:

Arizona  
Arkansas  
Connecticut  
Florida  
Kentucky  
Maine  
Massachusetts  
Minnesota  
Nebraska  
North Carolina  
Ohio  
Pennsylvania  
Texas  
Virginia  
Wyoming  
District of Columbia

Additionally, Hawai’i allows appeals of right for denial of certain absolute immunity, such as legislative immunity. Michigan’s rule is by no means an outlier.

### **Administrative Issues**

The remaining issues raised by Justice Cavanagh would appear to fall within the expertise of the Court of Appeals judges, clerks, and administrators.

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<sup>17</sup> MRPC 3.1



## Conclusion

The current rules allowing appeals of right from denials of summary disposition based on governmental immunity and a corresponding stay of proceedings has successfully served the citizens of the State. The rule has allowed the dismissal of hundreds of cases brought against governmental defendants when governmental immunity was erroneously denied by the trial court. This in turn has saved the time, money, and resources of the taxpayers, both parties in the litigation, and the trial court system. No rationale has been identified to justify revising the existing process. The experience of the last twenty years has demonstrated the existing rules are effective and should not be rescinded or revised.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael S. Bogren", followed by a horizontal flourish.

Michael S. Bogren (P34835)  
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# **EXHIBIT 1**

STATE OF MICHIGAN  
DEPARTMENT OF ATTORNEY GENERAL

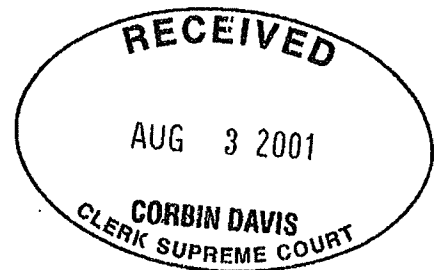


WILLIAM J. RICHARDS  
Deputy Attorney General

P.O. Box 30212  
LANSING, MICHIGAN 48909

JENNIFER MULHERN GRANHOLM  
ATTORNEY GENERAL

August 3, 2001



01-07  
~~99-20~~  
Mr. Corbin R. Davis, Clerk, Michigan Supreme Court  
PO Box 30052  
Lansing, MI 48909-7552

Dear Mr. Davis:

The Office of Attorney General would like to thank the Court for its invitation to submit comments regarding the amendment of Rule 7.203 of the Michigan Court Rules. Accordingly, we present the following comments for consideration by the Court.

This Court's proposed amendment has been suggested to be analogous to the concept of "qualified immunity" from liability under 42 U.S.C. § 1983, by reference to Mitchell v. Forsyth, 472 U.S. 511 (1985). Mitchell v. Forsyth provides a right to immediate, interlocutory appeal from the trial court's denial of a motion for dismissal based on qualified immunity. This need for immediate appeal of the denial of qualified immunity is based on the concept that the immunity is "an entitlement not to stand trial in certain circumstances." 472 U.S. at 525. Qualified immunity in its present form was enunciated in Harlow v. Fitzgerald, 457 U.S. 800 (1982).

This court has long recognized that individual immunity is, similarly, "an entitlement not to stand trial." Ross v. Consumers Power, on reh'g, 420 Mich. 567, 363 N.W.2d 641 (Mich. 1984), contained this Court's discussion of the need for individual immunity, which resulted in the Legislature crafting the current standard in M.C.L. 691.1407, emphasized this point. The Court quoted J. Learned Hand approvingly:

Such immunity is not designed to protect the guilty, for if it were possible in practice to confine such complaints to the guilty, it would be monstrous to deny recovery. The justification for doing so is that it is impossible to know whether the claim is well founded until the case has been tried, and that to submit all officials, the innocent as well as the guilty, to the burden of a trial and to the inevitable danger of its outcome, would dampen the ardor of all but the most resolute, or the most irresponsible, in the unflinching discharge of their duties. In this instance it has been thought in the end better to leave unredressed the

Mr. Corbin Davis  
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wrongs done by dishonest officers than to subject those who try to do their duty to the constant dread of retaliation. Learned Hand, J., in Gregoire v. Biddle, 177 F.2d 579, 581 [2nd Cir.1949].

420 Mich. at 628.

The Court then declared that: "individual immunity exists to ensure that a decision – maker is free to devise the best overall solution to a particular problem, undeterred by the fear that those few people who are injured by the decision will bring suit." 420 Mich. at 631. Nowhere in the discussions of the potential breadth of immunity, has this Court or the Legislature ever limited individual immunity to immunity from damages. The immunity was intended as an immunity from trial, as the discussion in Ross clearly indicates. 420 Mich. at 625-635. As an entitlement not to stand trial, the immunity is effectively lost if the denial of the motion for summary disposition is not immediately appealable.

There are other costs to the state which are incurred by the inability to immediately appeal the trial court's denial of governmental immunity. In Harlow v. Fitzgerald, 457 U.S. 800 (1982), the Supreme Court discussed the costs to governmental defendants of litigation being permitted to progress to trial. 457 U.S. at 816. Those costs identified by the Court include (1) the expenses of litigation; (2) the diversion of official energy from pressing public issues; (3) the deterrence of competent citizens from seeking public service; and (4) the chilling effect on the discharge of official duties. The Court also noted that discovery is often wide-ranging, often including the deposing of professional colleagues. 457 U.S. at 816. The Court then re-crafted the defense of qualified immunity in response. As observed above, the Court later concluded in Mitchell v. Forsyth that for the immunity to be effective, there must be a right to immediate appeal of its denial. Those same costs of litigation apply equally to claims of personal injury in state court, as to claims under 42 U.S.C. § 1983.

So, it must also be observed that for immunity to truly be a defense, not only must there be a right to immediate appeal, but there must also be a stay of the trial proceedings. Without a stay, the protections intended by immunity are lost. Perhaps the following language could be added to M.C.R. 7.209(E) as a new (4) to give meaning to the addition of M.C.R. 7.203(5):

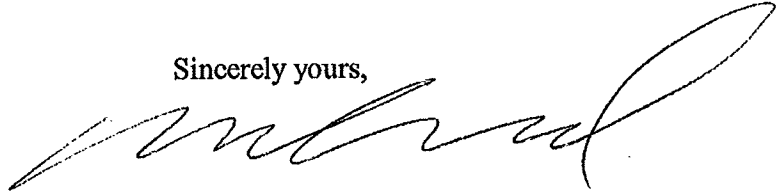
"If a government party files a claim of appeal pursuant to the provisions of M.C.R. 7.203(5), the trial court shall stay the proceedings during the pendency of such appeal."

One other issue must be considered. The proposed amendment uses the term "governmental party." Certainly this right to interlocutory appeal should apply equally to the denial of individual immunity under M.C.L. 691.1407(2), as it does to the absolute immunity of agencies and officials under M.C.L. 691.1407(1),(5). In the federal system, both the denial of Eleventh Amendment immunity for state agencies and the denial of qualified immunity for individual agents of the state are final orders that are immediately appealable. Therefore, we would suggest that the language of the proposed amendment be altered to ensure that individual employees receive this same protection of the right to interlocutory appeal.

Mr. Corbin Davis  
Page 3  
August 3, 2001

Again we thank this Honorable Court for granting us the opportunity to offer our comments.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'McDaniel', with a large, sweeping loop at the end.

Michael C. McDaniel  
Assistant Attorney General for Litigation

# **EXHIBIT 2**

# Order

Michigan Supreme Court  
Lansing, Michigan

June 22, 2022

Bridget M. McCormack,  
Chief Justice

ADM File No. 2021-35

Proposed Amendment of  
Rule 7.202 of the Michigan  
Court Rules

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

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On order of the Court, this is to advise that the Court is considering an amendment of Rule 7.202 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 each 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 7.202 Definitions

For purposes of this subchapter:

(1)-(6) [Unchanged.]

(7) “governmental immunity” includes immunity of the state, a tribal government, or a political subdivision from suit or liability.

*Staff Comment:* The proposed amendment of MCR 7.202 would provide a definition of governmental immunity to include the state’s, a tribal government’s, or a political subdivision’s immunity from suit or liability.

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 October 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](mailto:ADMcomment@courts.mi.gov). When filing a comment, please refer to ADM File No. 2021-35. 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.

June 22, 2022

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

Clerk



# **EXHIBIT 3**

## **Court of Appeals Opinions February 2023 – 2013**

Case Name	Lower Court	Result
COA 358189 DUSTIN HANNAH V STANLEY RASPOTNIK Opinion - Per Curiam - Unpublished 02/01/2023	Mason	L/Ct Judgment/Order Affirmed
COA 360352 JACQUELINE SAUCILLO V JOHN DOE Opinion - Per Curiam - Unpublished 01/18/2023	Wayne	L/Ct Judgment/Order Affirmed
COA 358854 CHRISTINE HARRIS V CITY OF ANN ARBOR Opinion - Per Curiam - Unpublished 01/18/2023	Washtenaw	L/Ct Judgment/Order Affirmed
COA 353611 O BRUCE T WOOD V CITY OF DETROIT Opinion - On Remand SCT - Per Curiam - Unpublished 11/02/2022	Wayne	Affirmed in part/remanded
COA 358286 MATTHEW EMANUELSEN V CITY OF WOODHAVEN Opinion - Per Curiam - Unpublished 10/19/2022	Wayne	L/Ct Judgment/Order Affirmed
COA 357805 GAVIN CAVAZOS V AMERICAN ATHLETIX LLC Opinion - Per Curiam - Unpublished 10/12/2022	Genesee	Affirm in Part, Reverse in Part, Remanded
COA 356848 PAULA DAY V SMART Opinion - Per Curiam - Unpublished 10/12/2022	Macomb	L/Ct Judgment/Order Affirmed
COA 357006 MARTHA CAVILL V STATE OF MICHIGAN Opinion - Per Curiam - Unpublished 09/14/2022	Court of Claims	L/Ct Judgment/Order Affirmed
COA 359479 JASON BRANDOM JR V DETROIT PUBLIC SCHOOL DISTRICT Opinion - Per Curiam - Unpublished 08/10/2022	Wayne	L/Ct Judgment/Order Affirmed
COA 358794 VANESSA FERRIOLE V CITY OF DETROIT Opinion - Per Curiam - Unpublished 07/28/2022	Wayne	Reversed and Remanded
COA 356829 DENISE ANN MIDDLETON V KENNETH ARTHUR TEMPLE Opinion - Per Curiam - Unpublished 07/28/2022	Bay	Reversed and Remanded
COA 357709 ESTATE OF PATRICK ANTONIO CLEMONS-HODGES V CITY OF DETROIT Opinion - Per Curiam - Unpublished 07/21/2022	Wayne	L/Ct Judgment/Order Affirmed
COA 355435 RUTHANN O'BRIEN V JESSE D EMMONS Opinion - Per Curiam - Unpublished 04/21/2022	Kalkaska	L/Ct Judgment/Order Affirmed
COA 356754 SHANNON EDWARDS V RASHAAD CORMIER Opinion - Per Curiam - Unpublished 03/17/2022	Genesee	Reversed and Remanded
COA 356962 GRACE ALEXANDER V CITY OF DETROIT Opinion - Per Curiam - Unpublished 02/17/2022	Wayne	L/Ct Judgment/Order Affirmed
COA 354624 KELLY DOUGHERTY V CITY OF DETROIT Opinion - Authored - Published After Release 02/03/2022	Wayne	Reversed and Remanded
COA 354833 SAYLOR LAVALLEE V DR MATTHEW R JACKSON Opinion - Per Curiam - Unpublished 01/13/2022	Court of Claims	L/Ct Judgment/Order Affirmed
COA 354694 JULIA MICKENS V MEEMIC INSURANCE COMPANY Opinion - Per Curiam - Unpublished 12/28/2021	Wayne	Reversed and Remanded
COA 354503 NICOLA BINNS V HOWARD PICKENS Opinion - Per Curiam - Unpublished 12/16/2021	Wayne	Reversed and Remanded
COA 355218 DONALD E COPUS V LENAWEE COUNTY DRAIN COMMISSIONER Opinion - Per Curiam - Unpublished 12/02/2021	Lenawee	L/Ct Judgment/Order Reversed
COA 354502 GEORGE RAZOUKY V DIONDRE MARCUS DOAKS Opinion - Per Curiam - Unpublished 11/18/2021	Wayne	Reversed and Remanded
COA 353401 MYAIR BARNETT V DEJA SHARDONNAY JACKSON Opinion - Per Curiam - Unpublished 09/02/2021	Genesee	L/Ct Judgment/Order Affirmed
COA 353249 MILFORD HILLS PROPERTIES INC V CHARTER TOWNSHIP OF MILFORD Opinion - Per Curiam - Unpublished 09/02/2021	Oakland	Affirm in Part, Reverse in Part, Remanded
COA 354183 WILLIAM EAGLE V MACOMB INTERMEDIATE SCHOOL DISTRICT Opinion - Per Curiam - Unpublished 09/02/2021	Macomb	Affirm in Part, Reverse in Part, Remanded
COA 354337 HODA DANNAOUI V CRESTWOOD SCHOOL DISTRICT Opinion - Per Curiam - Unpublished 08/25/2021	Wayne	L/Ct Judgment/Order Reversed
COA 353611 BRUCE T WOOD V LAWRENCE LUCKETT Opinion - Per Curiam - Unpublished 08/12/2021	Wayne	Affirm in Part, Reverse in Part, Remanded
COA 352976 ESTATE OF LAKE JACOBSON V MATTHEW HORNBECK Opinion - Per Curiam - Unpublished 07/22/2021	Washtenaw	Affirm in Part, Vacate in Part, Remanded
COA 352497 WILLIAM LANG V STERLING HEIGHTS EMPLOYEES RETIREMENT SYSTEM Opinion - Per Curiam - Unpublished 06/10/2021	Macomb	L/Ct Judgment/Order Affirmed
COA 352803 PARZ GROUP INC V CITY OF LIVONIA Opinion - Per Curiam - Unpublished 06/10/2021	Wayne	L/Ct Judgment/Order Affirmed
COA 354486 BARRY LATARTE V DESHAWN HARRIS Opinion - Per Curiam - Unpublished 06/03/2021	Saginaw	L/Ct Judgment/Order Affirmed

COA 347868 O AUGUST SCHUTT V SMART Opinion - On Remand SCT - Per Curiam - Unpublished 05/27/2021	Macomb	Affirm in Part, Reverse in Part, Remanded
COA 351921 ROBERT WOOLEN V CITY OF DETROIT Opinion - Per Curiam - Unpublished 05/20/2021	Wayne	L/Ct Judgment/Order Affirmed
COA 353109 ESTATE OF STEPHEN GREENE V JOSHUA CHORоба Opinion - Per Curiam - Unpublished 05/20/2021	Wayne	L/Ct Judgment/Order Affirmed
COA 353745 EDWARD JONES V SMART Opinion - Per Curiam - Unpublished 05/20/2021	Oakland	L/Ct Judgment/Order Affirmed
COA 354155 JEFFREY WALBY V CITY OF CARO Opinion - Per Curiam - Unpublished 05/13/2021	Tuscola	Reversed and Remanded
COA 353174 MAUREEN GENTRY V STATE OF MICHIGAN Opinion - Per Curiam - Unpublished 05/06/2021	Court of Claims	Affirm in Part, Reverse in Part, Remanded
COA 350858 CHRISTOPHER HENDERSON V PATRICIA LEE LAUDERDALE Opinion - Per Curiam - Unpublished 03/18/2021	Wayne	L/Ct Judgment/Order Affirmed
COA 350321 SUSAN CHRISTIE V WAYNE STATE UNIVERSITY Opinion - Per Curiam - Unpublished 01/28/2021	Wayne	L/Ct Judgment/Order Affirmed
COA 351425 HARTZLER EXCAVATING LLC V CHRISTOPHER J QUATTRIN Opinion - Per Curiam - Unpublished 01/21/2021	Berrien	Affirm in Part, Reverse in Part, Remanded
COA 350953 KRISTINE SCIARROTTA-HAMEL V CITY OF DEARBORN Opinion - Per Curiam - Unpublished 01/14/2021	Wayne	L/Ct Judgment/Order Affirmed
COA 351045 ANTHONY PARKER V CITY OF DETROIT Opinion - Per Curiam - Unpublished 12/22/2020	Wayne	Reverse in Part and Remanded
COA 349020 LANA TYRRELL V UNIVERSITY OF MICHIGAN Opinion - Authored - Published 12/22/2020	Washtenaw	L/Ct Judgment/Order Affirmed
COA 350502 ESTATE OF MICHAEL CARR V JUSTIN GREEN Opinion - Per Curiam - Unpublished 12/17/2020	Wayne	Reversed and Remanded
COA 349746 HAROLD WIEHN V CITY OF FREMONT Opinion - Per Curiam - Unpublished 12/17/2020	Newaygo	L/Ct Judgment/Order Reversed
COA 352044 AUTO CLUB INSURANCE ASSOCIATION V STATE OF MICHIGAN Opinion - Per Curiam - Unpublished 12/10/2020	Court of Claims	L/Ct Judgment/Order Affirmed
COA 348675 DETROIT INVEST CORP V DETROIT WATER AND SEWERAGE DEPARTMENT Opinion - Per Curiam - Unpublished 10/22/2020	Wayne	L/Ct Judgment/Order Affirmed
COA 349794 PROFESSIONAL RESOURCE NETWORK V CHANTEL WOJICK Opinion - Per Curiam - Unpublished 10/15/2020	Van Buren	L/Ct Judgment/Order Affirmed
COA 351790 MARK KELLAPOURES V SMART Opinion - Per Curiam - Unpublished 10/15/2020	Macomb	Reversed and Remanded
COA 348916 JASON BRANDOM JR V DETROIT PUBLIC SCHOOL DISTRICT Opinion - Per Curiam - Unpublished 10/08/2020	Wayne	L/Ct Judgment/Order Affirmed
COA 348510 JESSICA WEBB V CITY OF DETROIT Opinion - Per Curiam - Unpublished 09/10/2020	Wayne	L/Ct Judgment/Order Affirmed
COA 350239 THELONIOUS JACKSON V DANIEL LUBELAN Opinion - Per Curiam - Unpublished 09/10/2020	Genesee	L/Ct Judgment/Order Affirmed
COA 346483 KENNEDY AMMAN V BETHANY BUSCH Opinion - Per Curiam - Unpublished 08/27/2020	Saginaw	Affirm in Part, Reverse in Part, Remanded
COA 344878 ESTATE OF AMARAH FILIZETTI V GWINN AREA COMMUNITY SCHOOLS Opinion - Per Curiam - Unpublished 08/27/2020	Marquette	Reversed and Remanded
COA 347868 AUGUST SCHUTT V SMART Opinion - Per Curiam - Unpublished 08/20/2020	Macomb	L/Ct Judgment/Order Reversed
COA 348636 CLINTON FRAZIER SR V CITY OF DETROIT Opinion - Per Curiam - Unpublished 08/20/2020	Wayne	L/Ct Judgment/Order Affirmed
COA 348996 MARKQUAN GRAY V THORNE PRIMARY ELEMENTARY SCHOOL Opinion - Per Curiam - Unpublished 08/20/2020	Wayne	Affirm in Part, Reverse in Part, Remanded
COA 348452 AUDREY WEST V DEPARTMENT OF NATURAL RESOURCES Opinion - Authored - Published 08/06/2020	Court of Claims	L/Ct Judgment/Order Affirmed
COA 349179 ESTATE OF HEPING ZHAO V AMEED MOHAMMAD SAEED RAOOF Opinion - Per Curiam - Unpublished 07/23/2020	Washtenaw	Reversed and Remanded
COA 349303 KATHLEEN PANZOFF V STATE OF MICHIGAN Opinion - Per Curiam - Unpublished 07/23/2020	Court of Claims	L/Ct Judgment/Order Affirmed
COA 349411 MARK GOSS V DEPARTMENT OF NATURAL RESOURCES Opinion - Per Curiam - Unpublished 07/23/2020	Court of Claims	L/Ct Judgment/Order Affirmed
COA 347313 KIMBERLEY GILEWSKI V CITY OF DETROIT Opinion - Per Curiam - Unpublished 07/02/2020	Wayne	L/Ct Judgment/Order Affirmed
COA 341895 O LOREN KROLL V DELORES DEMORROW Opinion - On Remand SCT - Per Curiam - Unpublished 06/25/2020	Muskegon	Reversed and Remanded

COA 346230 MORGAN DEVELOPMENT LLC V CITY OF DETROIT Opinion - Per Curiam - Unpublished 06/25/2020	Wayne	L/Ct Judgment/Order Affirmed
COA 346322 ESTATE OF TIPHANIE FAYETTE MAYFIELD V STATE OF MICHIGAN Opinion - Per Curiam - Unpublished 05/21/2020	Genesee	L/Ct Judgment/Order Affirmed
COA 346798 CITY OF DETROIT V ROBERT JAMES GOLF MANAGEMENT LLC Opinion - Per Curiam - Unpublished 05/14/2020	Wayne	Affirm in Part, Reverse in Part, Remanded
COA 347061 KENNETH MCKENZIE V DEPARTMENT OF CORRECTIONS Opinion - Per Curiam - Published 05/07/2020	Wayne	L/Ct Judgment/Order Affirmed
COA 346542 JENNIFER JANETSKY V COUNTY OF SAGINAW Opinion - Per Curiam - Unpublished 04/23/2020	Saginaw	Reversed and Remanded
COA 347191 RAY SCHORNAK V MARTINREA HOT STAMPINGS INC Opinion - Per Curiam - Unpublished 04/23/2020	Wayne	L/Ct Judgment/Order Affirmed
COA 348224 SEAN HIGHTOWER V. DEPT OF TRANSPORTATION - Opinion - Per Curiam - Unpublished 04/16/2020	Court of claims	Reverse and Remanded
COA 337972 WILLIAM SCOTT KINCAID V THE CITY OF FLINT Opinion - On Remand SCT - Per Curiam - Unpublished 04/16/2020	Court of Claims	Affirm in Part, Reverse in Part, Remanded
COA 347390 ALBERT JOSEPH FRATARCANGELI V SARAH MYERS Opinion - Per Curiam - Unpublished 04/09/2020	Oakland	Affirmed in Part; Reversed in Part
COA 346753 CHIQUITA ELLIS V CITY OF DETROIT Opinion - Per Curiam - Unpublished 02/25/2020	Wayne	L/Ct Judgment/Order Affirmed
COA 348910 BETTY WILLIAMS V CITY OF SAGINAW Opinion - Per Curiam - Unpublished 02/20/2020	Saginaw	Affirmed but Remanded
COA 345698 ESTATE OF SANDRA GREER V DETROIT WATER AND SEWERAGE DEPARTMENT Opinion - Per Curiam - Unpublished 02/18/2020	Wayne	L/Ct Judgment/Order Affirmed
COA 345400 BIRGETTA WALKER V CITY OF ROMULUS Opinion - Per Curiam - Unpublished 02/11/2020	Wayne	Reversed and Remanded
COA 345419 WILLIAM MORAN V COOPER CHARTER TOWNSHIP Opinion - Per Curiam - Unpublished 01/23/2020	Kalamzoo	Affirmed in Part, Reverse in Part, Remanded
COA 336220 O RYAN MENARD V TERRY R IMIG Opinion - On Remand SCT - Per Curiam - Unpublished 01/14/2020	Macomb	Affirmed but Remanded
COA 345110 JOHN STANTON V ANCHOR BAY SCHOOL DISTRICT Opinion - Per Curiam - Unpublished 01/07/2020	St. Clair	L/Ct Judgment/Order Affirmed
COA 345411 ESTATE OF SHAUN M TSCHIRHART V CITY OF TROY Opinion - Per Curiam - Unpublished 12/17/2019	Oakland	Reversed and Remanded
COA 345314 ESTATE OF LAVELL LLOYD V CITY OF DETROIT Opinion - Per Curiam - Unpublished 12/17/2019	Wayne	Reversed and Remanded
COA 345790 DANIEL FRANCIS MCGUIRE V HIGHLAND TOWNSHIP Opinion - Per Curiam - Unpublished 12/12/2019	Oakland	Vacated, Reversed and Remanded
COA 345026 W OTIS CULPEPPER V COUNTY OF WAYNE Opinion - Per Curiam - Unpublished 12/12/2019	Wayne	Reversed and Remanded
COA 333181 GRANT BAUSERMAN V UNEMPLOYMENT INSURANCE AGENCY Opinion - On Remand SCT - Authored 12/05/2019	court of claims	L/Ct Judgment/Order Affirmed
COA 342679 TRINITY HENDERSON V CITY OF MELVINDALE Opinion - Per Curiam - Unpublished 11/21/2019	Wayne	Reversed and Remanded
COA 345677 RICHARD KEVIN STEIGER V ROBERT HAHN Opinion - Per Curiam - Unpublished 11/14/2019	Apena	Reversed and Remanded
COA 344227 SERGIO LOVE V MICHAEL NOTORIANO Opinion - Per Curiam - Unpublished 11/07/2019	Wayne	L/Ct Judgment/Order Affirmed
COA 342714 ESTATE OF JOHN SAKOFSKE V HEATHER LOUISE GERING Opinion - Per Curiam - Unpublished 10/22/2019	Wayne	Reversed and Remanded
COA 342836 DAVID C ADKINS V SAMUEL O GABOR Opinion - Per Curiam - Unpublished 10/17/2019	Wayne	Reversed and Remanded
COA 343161 ESTATE OF MICHAEL WHYTE V DETROIT TRANSPORTATION CORPORATION Opinion - Per Curiam - Unpublished 10/17/2019	Wayne	Reversed and Remanded
COA 340975 ALAN DRAKE V CITY OF OAK PARK Opinion - Per Curiam - Unpublished 09/10/2019	Oakland	Reversed and Remanded
COA 340533 ESTATE OF RALPH BROWN V SEAN WOLAN Opinion - Per Curiam - Unpublished 08/27/2019	Oakland	L/Ct Judgment/Order Affirmed
COA 343966 BARBARA MARKS V CITY OF DETROIT Opinion - Per Curiam - Unpublished 08/20/2019	Wayne	Reversed and Remanded
COA 344757 SERENITY HOMES-NORTH LLC V LYNNE DOYLE Opinion - Per Curiam - Unpublished 08/20/2019	Ottawa	L/Ct Judgment/Order Affirmed
COA 344680 KEVIN AMENSON V DEPARTMENT OF STATE POLICE Opinion - Per Curiam - Unpublished 06/27/2019	Oakland	Reversed and Remanded

COA 344477 SHERRI GLEZMAN V TRAVERSE CITY AREA PUBLIC SCHOOLS Opinion - Per Curiam - Unpublished 06/11/2019	Grand Traverse	L/Ct Judgment/Order Affirmed
COA 341648 ANITA KANO V CURTIS JACOBSON Opinion - Per Curiam - Unpublished 05/23/2019	Macomb	Reversed and Remanded
COA 343010 MISHELLE KENNEDY V STATE OF MICHIGAN Opinion - Per Curiam - Unpublished 05/16/2019	Court of Claims	L/Ct Judgment/Order Affirmed
COA 342448 RHONDA SCHILLING V CITY OF LINCOLN PARK Opinion - Per Curiam - Unpublished 05/16/2019	Wayne	Affirmed but Remanded
COA 340667 ESTATE OF JAMES THOMAS BUSH V CITY OF ST CLAIR SHORES Opinion - Per Curiam - Unpublished 05/07/2019	Macomb	L/Ct Judgment/Order Affirmed
COA 341624 JOHN HOLETON V CITY OF LIVONIA Opinion - Per Curiam - Published 05/07/2019	Wayne	Reversed and Remanded
COA 340447 ESTATE OF RITA H HUGHES V CITY OF LIVONIA Opinion - Per Curiam - Unpublished 04/30/2019	Wayne	L/Ct Judgment/Order Affirmed
COA 342655 ESTATE OF KYLE MELVIN WHEELER V CITY OF FLINT Opinion - Per Curiam - Unpublished 04/25/2019	Genesee	Reversed and Remanded
COA 341967 DANIEL MURRAY V CITY OF DETROIT Opinion - Per Curiam - Unpublished 04/23/2019	Wayne	Reversed and Remanded
COA 340508 ANTHONY MICHAEL COLLINS V ASHLEY KOFAHL Opinion - Per Curiam - Unpublished 03/21/2019	Washtenaw	L/Ct Judgment/Order Affirmed
COA 343494 ESTATE OF JOSEPH J FALARSKI V DEPT OF MILITARY & VETERANS AFFAIRS Opinion - Per Curiam - Unpublished 03/14/2019	Court of Claims	L/Ct Judgment/Order Affirmed
COA 344363 TAKARIE NAPIER V GOVERNOR Opinion - Per Curiam - Unpublished 03/14/2019	Court of Claims	L/Ct Judgment/Order Affirmed
COA 341895 LOREN KROLL V DELORES DEMORROW Opinion - Per Curiam - Unpublished 02/26/2019	Muskegon	Reversed and Remanded
COA 340757 DEBRA A PARADISO V CITY OF ROYAL OAK Opinion - Per Curiam - Unpublished 02/21/2019	Oakland	Reversed and Remanded
COA 339594 ESTATE OF MICHAEL WRENN V SPECTRUM COMMUNITY SERVICES Opinion - Per Curiam - Unpublished 02/21/2019	Berrien	Affirm in Part, Reverse in Part, Remanded
COA 338171 ANTHONY HART V STATE OF MICHIGAN Opinion - Per Curiam - Unpublished 02/07/2019	Court of Claims	Reversed and Remanded
COA 340570 D M BURR FACILITIES MANAGEMENT INC V ROMULUS COMMUNITY SCHOOLS Opinion - Per Curiam - Unpublished 01/29/2019	Wayne	Reversed and Remanded
COA 341903 ADR CONSULTANTS LLC V MICHIGAN LAND BANK FAST TRACK AUTHORITY Opinion - Authored - Published 01/24/2019	Court of Claims	L/Ct Judgment/Order Affirmed
COA 341857 CRAIG MURAWSKI V CITY OF ESSEXVILLE Opinion - Per Curiam - Unpublished 01/22/2019	Bay	L/Ct Judgment/Order Affirmed
COA 340071 ATHEER AL-JABIRI V COUNTY OF WAYNE Opinion - Per Curiam - Unpublished 12/13/2018	Wayne	Reversed and Remanded
COA 338704 FREDERICK R WHEELER V CITY OF LIVONIA Opinion - Per Curiam - Unpublished 11/27/2018	Wayne	L/Ct Judgment/Order Affirmed
COA 341501 DAVID ALLEY V CHARTER TOWNSHIP OF MUNDY Opinion - Per Curiam - Unpublished 11/15/2018	Genesee	Reversed and Remanded
COA 340993 LOGAN SCHAUB V JAMES ALBERT SEYLER Opinion - Per Curiam - Unpublished 11/15/2018	Grand Traverse	Affirm in Part, Reverse in Part, Remanded
COA 340759 HOWARD SCHROCK V CITY OF LINDEN Opinion - Per Curiam - Unpublished 10/25/2018	Genesee	Reversed and Remanded
COA 340006 ESTATE OF NANCY SANDERS V KENNETH A WRIGHT Opinion - Per Curiam - Unpublished 10/23/2018	Washtenaw	Reversed and Remanded
COA 339795 RONALD THOMPSON-BEY V CITY OF DETROIT Opinion - Per Curiam - Unpublished 09/18/2018	Wayne	L/Ct Judgment/Order Affirmed
COA 336220 RYAN MENARD V TERRY R IMIG Opinion - Per Curiam - Unpublished 09/06/2018	Macomb	Reversed and Remanded
COA 338275 THELONIOUS JACKSON V DANIEL LUBELAN Opinion - Per Curiam - Unpublished 07/05/2018	Genesee	L/Ct Judgment/Order Affirmed
COA 337972 WILLIAM SCOTT KINCAID V THE CITY OF FLINT Opinion - Per Curiam - Unpublished 06/26/2018	Genesee	Reversed and Remanded
COA 335467 TROY WILLIAMS V CITY OF EAST LANSING Opinion - Per Curiam - Unpublished 06/26/2018	Ingham	Reversed and Remanded
COA 336530 CAROL PITTS V CITY OF DEARBORN Opinion - Per Curiam - Unpublished 06/21/2018	Wayne	L/Ct Judgment/Order Affirmed

COA 335678 ARTHUR CHAPMAN V OFFICER D MACK Opinion - Per Curiam - Unpublished 06/19/2018	Wayne	Reversed and Remanded
COA 340921 PROGRESS MICHIGAN V ATTORNEY GENERAL Opinion - Per Curiam - Published 06/19/2018	Court of Claims	Reversed and Remanded
COA 338981 ESTATE OF BRENDON PEARCE V EATON COUNTY ROAD COMMISSION Opinion - Authored - Published 06/07/2018	Eaton	Affirm in Part, Reverse in Part, Remanded
COA 339402 TERRI L WRIGHT V CITY OF SAGINAW Opinion - Per Curiam - Unpublished 05/24/2018	Saginaw	L/Ct Judgment/Order Affirmed
COA 340895 KATHY BEDAU V CADILLAC AREA PUBLIC SCHOOLS Opinion - Per Curiam - Unpublished 05/24/2018	Wexford	L/Ct Judgment/Order Affirmed
COA 339835 JACQUELINE ANNA REED V STATE OF MICHIGAN Opinion - Per Curiam - Published 05/24/2018	Court of Claims	L/Ct Judgment/Order Affirmed
COA 339634 NAWAL HATOUM V CITY OF ANN ARBOR Opinion - Per Curiam - Unpublished 05/22/2018	Washtenaw	Reversed and Remanded
COA 336668 ROBERT TSCHIRHART V PAMAR ENTERPRISES INC Opinion - Per Curiam - Unpublished 05/17/2018	Huron	Reversed and Remanded
COA 337394 TIM EDWARD BRUGGER II V MIDLAND COUNTY BD OF ROAD COMMISSIONERS Opinion - Authored - Published 05/15/2018	Midland	L/Ct Judgment/Order Affirmed
COA 338798 JA'KWON TIGGS V FLINT COMMUNITY SCHOOLS Opinion - Per Curiam - Unpublished 05/08/2018	Genesee	Reversed and Remanded
COA 337058 DEANNA RAY V CITY OF LANSING Opinion - Per Curiam - Unpublished 04/17/2018	Ingham	Affirmed but Remanded
COA 337513 CATHERINE SMITH V CITY OF DETROIT Opinion - Per Curiam - Unpublished 04/12/2018	Wayne	L/Ct Judgment/Order Affirmed
COA 336324 BARBARA BAKER V CHARTER TOWNSHIP OF VAN BUREN Opinion - Per Curiam - Unpublished 03/20/2018	Wayne	Reversed in Part and Remanded
COA 336200 ROBIN MITCHELL V CITY OF LATHRUP VILLAGE Opinion - Per Curiam - Unpublished 03/15/2018	Oakland	L/Ct Judgment/Order Affirmed
COA 335760 BRUCE T WOOD V CITY OF DETROIT Opinion - Authored - Published 03/15/2018	Wayne	Affirmed in Part; Reversed in Part
COA 336321 MEGAN BAYAGICH V ALYSSA MCCULLOUGH Opinion - Per Curiam - Unpublished 02/27/2018	Washtenaw	L/Ct Judgment/Order Affirmed
COA 337873 CORA LEE HOBBS-JACKSON V LANSING BOARD OF WATER AND LIGHT Opinion - Per Curiam - Unpublished 02/22/2018	Ingham	L/Ct Judgment/Order Affirmed
COA 335257 LAWRENCE A NAKFOOR V OUR SAVIOR LUTHERAN CHURCH Opinion - Per Curiam - Unpublished 01/30/2018	Eaton	Affirm in Part, Reverse in Part, Remanded
COA 337081 KIMBERLY RODRIGUEZ V BOARD OF REGENTS OF UNIVERSITY OF MICHIGAN Opinion - Per Curiam - Unpublished 01/25/2018	Washtenaw	Reversed and Remanded
COA 335555 MELISSA MAYS V GOVERNOR RICK SNYDER Opinion - Authored - Published 01/25/2018	Court of Claims	L/Ct Judgment/Order Affirmed
COA 334619 ESTATE OF AIYANA STANLEY-JONES V OFFICER JOSEPH WEEKLEY Opinion - Per Curiam - Unpublished 01/18/2018	Wayne	L/Ct Judgment/Order Affirmed
COA 334342 KIMBERLY GARZA V CITY OF DETROIT Opinion - Per Curiam - Unpublished 01/18/2018	Wayne	Reversed and Remanded
COA 334733 WILLIAM WOODS V GENESEE COUNTY DRAIN COMMISSION Opinion - Per Curiam - Unpublished 01/09/2018	Genesee	Reversed and Remanded
COA 334406 DEPARTMENT OF TRANSPORTATION V DJ MCQUESTION AND SONS INC Opinion - Per Curiam - Unpublished 12/28/2017	Court of Claims	Reversed and Remanded
COA 335240 TINA PARKMAN V ENTERPRISE LEASING COMPANY OF DETROIT LLC Opinion - Per Curiam - Unpublished 12/28/2017	Wayne	Reversed and Remanded
COA 336231 HELEN LEVENSON V CITY OF ANN ARBOR Opinion - Per Curiam - Unpublished 12/26/2017	Washtenaw	L/Ct Judgment/Order Affirmed
COA 334173 SHAKILA POWELL V CITY OF DETROIT Opinion - Per Curiam - Unpublished 12/19/2017	Wayne	L/Ct Judgment/Order Affirmed
COA 335413 SANDRA CHURCH V CITY OF DETROIT Opinion - Per Curiam - Unpublished 12/12/2017	Wayne	Reversed and Remanded
COA 334129 WILLIAM EVENNOU V DTE GAS COMPANY Opinion - Per Curiam - Unpublished 11/21/2017	Court of Claims	L/Ct Judgment/Order Affirmed
COA 333940 MARY GLENN V HURON-CLINTON METROPOLITAN AUTHORITY Opinion - Per Curiam - Unpublished 11/21/2017	Wayne	Reversed and Remanded
COA 333448 DWAYNE WIGFALL V CITY OF DETROIT Opinion - Per Curiam - Published After Release 10/10/2017	Wayne	Reversed and Remanded
COA 334149 KEVIN HELME V CITY OF CLAWSON Opinion - Per Curiam - Unpublished 10/26/2017	Oakland	L/Ct Judgment/Order Affirmed

COA 334404 ALFRED MILLER V CITY OF FLINT Opinion - Per Curiam - Unpublished 10/26/2017	Genesee	Reversed and Remanded
COA 322766 KERSCH RAY V ERIC SWAGER Opinion - Per Curiam - Published 10/24/2017	Washtenaw	Affirmed but Remanded
COA 332354 DEREK CAMPBELL V CITY OF HUDSON Opinion - Per Curiam - Unpublished 10/19/2017	Lenawee	Reversed and Remanded
COA 332934 LAWRENCE RUSSELL V CITY OF DETROIT Opinion - Per Curiam - Published 10/10/2017	Wayne	L/Ct Judgment/Order Affirmed
COA 333818 DARREL MEHAY V RUBEN GARZA Opinion - Per Curiam - Unpublished 10/10/2017	Court of Claims	L/Ct Judgment/Order Affirmed
COA 329776 LARRY SHEARS V DOUGLAS BINGAMAN Opinion - Per Curiam - Unpublished 08/24/2017	Genesee	Reversed but Remanded
COA 331023 GENESEE COUNTY DRAIN COMMISSIONER V GENESEE COUNTY Opinion - Per Curiam - Published 08/22/2017	Genesee	Affirmed but Remanded
COA 332267 DARLENE POWELL V CITY OF DETROIT Opinion - Per Curiam - Unpublished 08/08/2017	Wayne	Reversed and Remanded
COA 331949 ROBERT OSTROWSKI V CHARTER TOWNSHIP OF CANTON Opinion - Per Curiam - Unpublished 07/27/2017	Wayne	L/Ct Judgment/Order Reversed
COA 332532 PAUL DEMOS V SMART Opinion - Per Curiam - Unpublished 07/20/2017	Oakland	L/Ct Judgment/Order Affirmed
COA 333181 GRANT BAUSERMAN V UNEMPLOYMENT INSURANCE AGENCY Opinion - Per Curiam - Unpublished 07/18/2017	Court of Claims	Reversed and Remanded
COA 332330 DOROTHY JOYCE PARNELL V CITY OF DETROIT Opinion - Per Curiam - Unpublished 07/18/2017	Wayne	Reversed and Remanded
COA 331386 SEAN WOOD V JESSICA BEELS Opinion - Per Curiam - Unpublished 07/18/2017	Macomb	L/Ct Judgment/Order Affirmed
COA 330998 ADRIENNE RENEE YOCHE V CITY OF DEARBORN Opinion - Per Curiam - Published 07/13/2017	Oakland	L/Ct Judgment/Order Affirmed
COA 331333 DONALD RAY REID V THETFORD TOWNSHIP Opinion - Per Curiam - Unpublished 05/25/2017	Genesee	Affirmed But Remanded
COA 331199 ELIZABETH BELLINGER V JULIE KRAM Opinion - Authored - Published 05/25/2017	Genesee	L/Ct Judgment/Order Affirmed
COA 329795 WILLIAM LANZI V TOWNSHIP OF ST CLAIR Opinion - Per Curiam - Unpublished 05/23/2017	St. Clair	L/Ct Judgment/Order Reversed
COA 330887 CARRIE S FLANAGIN V KALKASKA COUNTY ROAD COMMISSION Opinion - Per Curiam - Published 05/23/2017	Kalkaska	L/Ct Judgment/Order Affirmed
COA 330472 CATHRYN KOSTAROFF V WYANDOTTE PUBLIC SCHOOLS Opinion - Per Curiam - Unpublished 05/18/2017	Wayne	L/Ct Judgment/Order Reversed
COA 331256 JOUAN DYSON V CITY OF DETROIT Opinion - Per Curiam - Unpublished 05/18/2017	Wayne	Reversed and Remanded
COA 333099 ANITRA RASPBERRY V TOWNSHIP OF YATES Opinion - Per Curiam - Unpublished 05/09/2017	Lake	Reversed and Remanded
COA 331054 PATRICIA THOMAS V CITY OF FLINT Opinion - Per Curiam - Unpublished 04/20/2017	Genesee	Reversed and Remanded
COA 330983 BRUCE D SERVEN V HEALTH QUEST CHIROPRACTIC PC Opinion - Per Curiam - Published 04/06/2017	Genesee	Reversed and Remanded
COA 330003 STEVIE HILL V CITY OF FLINT Opinion - Per Curiam - Unpublished 03/28/2017	Genesee	L/Ct Judgment/Order Affirmed
COA 330459 MICHELLE A MONDAK V TAYLOR POLICE DEPARTMENT Opinion - Per Curiam - Unpublished 03/23/2017	Wayne	Reversed and Remanded
COA 332566 BILLY ROWE V D/SGT RONALD AINSLIE Opinion - Per Curiam - Unpublished 03/21/2017	Calhoun	L/Ct Judgment/Order Affirmed
COA 329591 MARK STIEVE V CITY OF DEARBORN Opinion - Per Curiam - Unpublished 03/09/2017	Wayne	L/Ct Judgment/Order Affirmed
COA 328068 TENITA WEBB-EATON V WAYNE COUNTY COMMUNITY COLLEGE DISTRICT Opinion - Per Curiam - Unpublished 02/21/2017	Wayne	Reversed and Remanded
COA 329589 ELIZABETH CUEVAS V THE BOARD OF HOSPITAL MANAGERS OF HURLEY MEDIC Opinion - Per Curiam - Unpublished 01/12/2017	Genesee	Reversed and Remanded
COA 329728 CATHERINE MILOT V DEPARTMENT OF TRANSPORTATION Opinion - Authored - Published 12/08/2016	Court of Claims	L/Ct Judgment/Order Affirmed
COA 328456 KATHRINE CURTIS V CITY OF CHARLEVOIX Opinion - Per Curiam - Unpublished 11/22/2016	Charlevoix	Reversed and Remanded
COA 328919 SYLVIA MCNARNEY V CITY OF ANN ARBOR Opinion - Per Curiam - Unpublished 11/17/2016	Washtenaw	Reversed and Remanded

COA 327784 JEFFREY SCOTT V SMART Opinion - Per Curiam - Unpublished 10/25/2016	Wayne	Reversed and Remanded
COA 327027 MARILYN E HIBBARD V CITY OF RIVERVIEW Opinion - Per Curiam - Unpublished 09/20/2016	Wayne	Reversed and Remanded
COA 327581 ESTATE OF GAYLE PEARSON V CITY OF RIVER ROUGE Opinion - Per Curiam - Unpublished 09/15/2016	Wayne	L/Ct Judgment/Order Affirmed
COA 327787 TRAVELERS PROPERTY CASUALTY CO OF AMERICA V CITY OF GRAND RAPIDS Opinion - Per Curiam - Unpublished 09/13/2016	Kent	Affirmed But Remanded
COA 327573 DEBRA HARPER V CITY OF FRASER Opinion - Per Curiam - Unpublished 08/30/2016	Macomb	L/Ct Judgment/Order Affirmed
COA 326073 TEARRIA PATON V CITY OF DETROIT Opinion - Per Curiam - Unpublished 06/28/2016	Wayne	Affirm in Part, Reverse in Part, Remanded
COA 326169 JACKIE'S TRANSPORT INC V UPRIGHT WRECKING & DEMOLITION LLC Opinion - Per Curiam - Unpublished 06/14/2016	Wayne	Reversed and Remanded
COA 326517 DEONTE RIDLEY V KURT BRITNELL Opinion - Per Curiam - Unpublished 06/14/2016	Wayne	L/Ct Judgment/Order Affirmed
COA 323226 KAREN L STRENG V BOARD OF MACKINAC COUNTY ROAD COMMISSIONERS Opinion - Authored - Published 05/24/2016	Mackinac	L/Ct Judgment/Order Affirmed
COA 326211 ALBERT KOSIS V CITY OF LIVONIA Opinion - Per Curiam - Unpublished 05/12/2016	Wayne	L/Ct Judgment/Order Affirmed
COA 324837 GAIL FOSTER V KEVIN SZLAGA Opinion - Per Curiam - Unpublished 03/01/2016	Macomb	Reversed and Remanded
COA 324009 ROSIE WITHERS V CITY OF DETROIT Opinion - Per Curiam - Unpublished 02/18/2016	Wayne	Reversed and Remanded
COA 323785 VICTORIA MORALES V CITY OF LINCOLN PARK Opinion - Per Curiam - Unpublished 02/11/2016	Wayne	L/Ct Judgment/Order Affirmed
COA 323212 CLAYTON J EWALT V DEPARTMENT OF TRANSPORTATION Opinion - Per Curiam - Unpublished 01/26/2016	Court of Claims	L/Ct Judgment/Order Affirmed
COA 321349 TRACEY SAHOORI V HARTLAND CONSOLIDATED SCHOOLS Opinion - Per Curiam - Unpublished 01/26/2016	Genesee	Affirm in Part, Reverse in Part, Remanded
COA 323396 RICHARD MIELCAREK V CHARTER TOWNSHIP OF ORION Opinion - Per Curiam - Unpublished 12/15/2015	Oakland	L/Ct Judgment/Order Affirmed
COA 323141 JASON FLATT V DETECTIVE J THORNBURN Opinion - Per Curiam - Unpublished 12/15/2015	Wayne	L/Ct Judgment/Order Affirmed
COA 322896 SENETTA ELAINE WALTHALL V FLINT HOUSING COMMISSION Opinion - Per Curiam - Unpublished 12/03/2015	Genesee	Reversed and Remanded
COA 323217 EMMA DELOISE ELLIOTT V DONALD J GABY Opinion - Per Curiam - Unpublished 11/12/2015	Genesee	L/Ct Judgment/Order Affirmed
COA 323071 DEBORAH MATO V CITY OF LIVONIA Opinion - Per Curiam - Unpublished 10/29/2015	Wayne	Affirmed But Remanded
COA 322371 STAR TICKETS V CHUMASH CASINO RESORT Opinion - Per Curiam - Unpublished 10/22/2015	Oakland	L/Ct Judgment/Order Affirmed
COA 322185 MARSHA GARCIA V ROSE LASKOWSKI Opinion - Per Curiam - Unpublished 10/15/2015	Tuscola	L/Ct Judgment/Order Affirmed
COA 322766 KERSCH RAY V ERIC SWAGER Opinion - Per Curiam - Unpublished 10/15/2015	Washtenaw	Reversed and Remanded
COA 320847 MELISSA CALVERT V JOHN GLEASON Opinion - Per Curiam - Unpublished 09/22/2015	Genesee	L/Ct Judgment/Order Affirmed
COA 321357 JACOB HOUSER V TECUMSEH PUBLIC SCHOOLS Opinion - Per Curiam - Unpublished 09/17/2015	Wayne	Reversed and Remanded
COA 320683 CANNON TOWNSHIP V ROCKFORD PUBLIC SCHOOLS Opinion - Authored - Published 07/14/2015	Kent	L/Ct Judgment/Order Affirmed
COA 322066 KEITH RADZOM V CITY OF RICHMOND Opinion - Per Curiam - Unpublished 06/18/2015	Macomb	Vacated and Remanded
COA 320800 FRED ST ONGE V STATE OF MICHIGAN Opinion - Per Curiam - Unpublished 06/11/2015	Court of Claims	Reversed and Remanded
COA 319803 VERNA DEMARTIN V UNIVERSITY OF MICHIGAN REGENTS Opinion - Per Curiam - Unpublished 05/19/2015	Court of Claims	Reversed and Remanded
COA 314650 MARK A ROSEMAN V CITY OF DETROIT Opinion - Per Curiam - Unpublished 05/07/2015	Wayne	Affirmed But Remanded
COA 319424 JOEL A PETERSON V MOUNT MORRIS BOARD OF EDUCATION Opinion - Per Curiam - Unpublished 04/22/2015	Genesee	Affirm in Part, Reverse in Part, Remanded
COA 320006 TINA MARIE LETSON V PINCONNING AREA SCHOOLS Opinion - Per Curiam - Unpublished 04/16/2015	Bay	L/Ct Judgment/Order Affirmed
COA 319001 TRAMAINE COTTON V BRIAN BANKS Opinion - Authored - Published 03/26/2015	Wayne	L/Ct Judgment/Order Affirmed



COA 319643 ASHLEY MICHELLE JACQUES V ROBIN EDWARDS Opinion - Per Curiam - Unpublished 03/24/2015	Iosco	L/Ct Judgment/Order Affirmed
COA 317047 LYNNE RENAE MIMMS V BRIAN RAYMOND MAURER Opinion - Per Curiam - Unpublished 03/19/2015	Oakland	L/Ct Judgment/Order Affirmed
COA 312450 GENESEE COUNTY DRAIN COMMISSIONER V GENESEE COUNTY Opinion - Authored - Published 03/03/2015	Genesee	Affirm in Part, Reverse in Part, Remanded
COA 317276 CARMEN MENDEZ-VELEZ V CITY OF DETROIT Opinion - Per Curiam - Unpublished 03/02/2015	Wayne	Reversed and Remanded
COA 316799 WILDA WALLACE V CITY OF DETROIT Opinion - Per Curiam - Unpublished 02/25/2015	Wayne	L/Ct Judgment/Order Affirmed
COA 318385 KEVIN RANKIN V CITY OF HIGHLAND PARK Opinion - Per Curiam - Unpublished 02/23/2015	Wayne	Affirm in Part, Reverse in Part, Remanded
COA 318900 KENNETH J BOGOS V CLAYTON J SPORE Opinion - Per Curiam - Unpublished 02/13/2015	Livingston	Reversed and Remanded
COA 312053 ESTATE OF ALI SUFI V CITY OF DETROIT Opinion - Per Curiam - Unpublished 02/13/2015	Wayne	Vacated and Remanded
COA 317748 BILLY ROWE V D/SGT RONALD AINSLIE Opinion - Per Curiam - Unpublished 02/04/2015	Calhoun	L/Ct Judgment/Order Affirmed
COA 317749 JACQUELINE HARRIS V CLINTON TOWNSHIP HOUSING COMMISSION Opinion - Per Curiam - Unpublished 01/28/2015	Macomb	Reversed and Remanded
COA 317715 JESSE CAMPBELL V SMART Opinion - Per Curiam - Unpublished 01/14/2015	Wayne	Affirm in Part, Reverse in Part, Remanded
COA 317898 AUBRY ELIZABETH PEDERSEN V HURON CLINTON METROPOLITAN AUTHORITY Opinion - Per Curiam - Unpublished 01/14/2015	Wayne	Reversed and Remanded
COA 317194 TRAVERSE VILLAGE LLC V NORTHERN LAKES COMMUNITY MENTAL HEALTH Opinion - Per Curiam - Unpublished 12/29/2014	Grand Traverse	Reversed and Remanded
COA 318281 MARK ROGER EICHORN V MICHAEL MARSH Opinion - Per Curiam - Unpublished 12/17/2014	Genesee	Affirm in Part, Reverse in Part, Remanded
COA 317466 DIANA M STANDEN V ALPENA COMMUNITY COLLEGE Opinion - Per Curiam - Unpublished 12/08/2014	Alpena	Reversed and Remanded
COA 310352 LAWRENCE FINGERLE V CITY OF ANN ARBOR Opinion - Authored - Published 12/02/2014	Washtenaw	L/Ct Judgment/Order Reversed
314220 RJEFFREY MINOR V CITY OF SYLVAN LAKE Opinion - On Reconsideration - Per Curiam - Unpublished 11/24/2014	Oakland	Reversed and Remanded
COA 317650 VERA GARLICK V BENJAMIN HARLESS Opinion - Per Curiam - Unpublished 11/19/2014	Wayne	Affirm in Part, Reverse in Part, Remanded
COA 317071 S S V STATE OF MICHIGAN Opinion - Authored - Published 11/06/2014	Wayne	Reversed and Remanded
COA 317017 ANTHONY CHARLES HUBBERT V SMART Opinion - Per Curiam - Unpublished 11/03/2014	Wayne	Reversed and Remanded
COA 316441 RICHARD C SECOSKY V JADE ALEXIS SANDERS Opinion - Per Curiam - Unpublished 10/17/2014	Washtenaw	Affirm in Part, Reverse in Part, Remanded
COA 317693 ROY RUSHA V DEPARTMENT OF CORRECTIONS Opinion - Authored - Published 10/21/2014	Court of Claims	Reversed and Remanded
COA 314707 ROYCE HOLMES V CITY OF DETROIT Opinion - Per Curiam - Unpublished 10/13/2014	Wayne	L/Ct Judgment/Order Reversed
COA 317155 NICHOLAS DIEDO V CITY OF INKSTER Opinion - Per Curiam - Unpublished 10/13/2014	Wayne	L/Ct Judgment/Order Affirmed
COA 315396 KENNETH C ZMUDZINSKI V CASSOPOLIS AREA UTILITIES AUTHORITY Opinion - Per Curiam - Unpublished 09/24/2014	Cass	Reversed and Remanded
COA 315375 ESTATE OF ELLEN CLECKLEY V SMART Opinion - Per Curiam - Unpublished 09/22/2014	Oakland	L/Ct Judgment/Order Affirmed
COA 308968 HELEN YONO V DEPARTMENT OF TRANSPORTATION Opinion - On Remand SCt - Authored 09/23/2014	Court of Claims	L/Ct Judgment/Order Affirmed
COA 316600 CATHERINE N MCCARTHY V CITY OF TRENTON Opinion - Per Curiam - Unpublished 09/17/2014	Wayne	Reversed and Remanded
COA 304255 ROGER BURNEY V CITY OF DETROIT Opinion - Per Curiam - Unpublished 09/15/2014	Wayne	Affirm in Part, Reverse in Part, Remanded
COA 314220 JEFFREY MINOR V CITY OF SYLVAN LAKE Opinion - Per Curiam - Unpublished 08/25/2014	Oakland	Reversed and Remanded
COA 314861 ESTATE OF ANDREW BALL JR V STATE OF MICHIGAN Opinion - Per Curiam - Unpublished 08/25/2014	Court of Claims	Affirmed But Remanded
COA 315850 KEVIN SORRELL V WAYNE COUNTY TREASURER Opinion - Per Curiam - Unpublished 08/20/2014	Wayne	Reversed and Remanded

COA 315317 ESTATE OF MAX LEROY YOUNG V RICHARD WAYNE PIERCE Opinion - Per Curiam - Unpublished 07/14/2014	Montcalm	L/Ct Judgment/Order Affirmed
COA 310231 ESTATE OF WILLIAM T BEALS V STATE OF MICHIGAN Opinion - Per Curiam - Unpublished 06/30/2014	Barry	Affirm in Part, Reverse in Part, Remanded
COA 314873 OLIVER LEE HOWARD V CHRISTOPHER PENA Opinion - Per Curiam - Unpublished 06/30/2014	Wayne	L/Ct Judgment/Order Affirmed
COA 314289 RENEE FELTNER V CITY OF GRAND RAPIDS Opinion - Per Curiam - Unpublished 06/25/2014	Kent	Reversed and Remanded
COA 315594 MICHELLE RENEE FAIRLEY V DEPARTMENT OF CORRECTIONS Opinion - Per Curiam - Unpublished 06/09/2014	Court of Claims	L/Ct Judgment/Order Affirmed
COA 312729 MAXINE RILEY V SMART Opinion - Per Curiam - Unpublished 06/04/2014	Wayne	L/Ct Judgment/Order Affirmed
COA 314971 ZACHARY KOTT-MILLARD V CITY OF TRAVERSE CITY Opinion - Per Curiam - Unpublished 06/04/2014	Grand Traverse	Affirm in Part, Reverse in Part, Remanded
COA 314994 KELLY KELLEY V CITY OF MANISTEE Opinion - Per Curiam - Unpublished 05/23/2014	Manistee	Affirmed But Remanded
COA 313958 GERALD F GLIWA JR V COUNTY OF LENAWEE Opinion - Per Curiam - Unpublished 05/23/2014	Lenawee	Reversed and Remanded
COA 310282 TAYLOR C SEGUE III V WAYNE COUNTY Opinion - Per Curiam - Unpublished 05/21/2014	Wayne	Affirm in Part, Reverse in Part, Remanded
COA 312663 MELODY HORNE V SMART Opinion - Per Curiam - Unpublished 05/21/2014	Macomb	Affirm in Part, Reverse in Part, Remanded
COA 313742 KHARON KINCANNON V DETROIT PUBLIC SCHOOLS Opinion - Per Curiam - Unpublished 05/12/2014	Wayne	Reversed and Remanded
COA 310552 TERRY ROBERTSON V CITY OF PONTIAC Opinion - Per Curiam - Unpublished 04/21/2014	Oakland	L/Ct Judgment/Order Affirmed
COA 313540 AZZAM ELDER V COUNTY OF WAYNE Opinion - Per Curiam - Unpublished 04/16/2014	Wayne	L/Ct Judgment/Order Affirmed
COA 313403 KEITH HARRIS V MOTT COMMUNITY COLLEGE Opinion - Per Curiam - Unpublished 03/31/2014	Genesee	Reversed and Remanded
COA 312392 MICHAEL LEGO V JAKE LISS Opinion - Per Curiam - Unpublished 03/26/2014	Wayne	L/Ct Judgment/Order Affirmed
COA 313294 FJN LLC V VIJAY PARAKH Opinion - Per Curiam - Unpublished 03/24/2014	Macomb	L/Ct Judgment/Order Affirmed
COA 313080 LISA L ZEZULA V CITY OF LINCOLN PARK Opinion - Per Curiam - Unpublished 03/03/2014	Wayne	L/Ct Judgment/Order Affirmed
COA 311086 JAMES GALLAGHER V CITY OF EAST LANSING Opinion - Per Curiam - Unpublished 02/25/2014	Ingham	Vacated and Remanded
COA 310971 MILDRED FERN CONLEY V CHARTER TOWNSHIP OF BROWNSTOWN Opinion - Per Curiam - Unpublished 01/16/2014	Wayne	L/Ct Judgment/Order Reversed
COA 312132 KIPATRICK MRKVA V MICHIGAN DEPARTMENT OF TRANSPORTATION Opinion - Per Curiam - Unpublished 12/18/2013	Court of Claims	L/Ct Judgment/Order Affirmed
COA 311695 PAMELA HENDRIX-BROWN V MT MORRIS CHARTER TOWNSHIP Opinion - Per Curiam - Unpublished 12/16/2013	Genesee	Reversed and Remanded
COA 309563 PATRICIA MCLEAN V CITY OF DEARBORN Opinion - Authored - Published 08/01/2013	Wayne	Reversed and Remanded
COA 310143 BLAKE HURLEY V L'ANSE CREUSE SCHOOL DISTRICT Opinion - Per Curiam - Unpublished 07/24/2013	Macomb	L/Ct Judgment/Order Affirmed
COA 310174 MICHAEL VELA V WAYNE COUNTY AIRPORT AUTHORITY Opinion - Per Curiam - Unpublished 07/24/2013	Wayne	Affirmed But Remanded
COA 309925 ESTATE OF DAVID EUGENE MAJORS V OFFICER LAVON HOWELL Opinion - Per Curiam - Unpublished 07/17/2013	Wayne	Reversed and Remanded
COA 308563 MICHAEL LAMBERT V CITY OF FLINT Opinion - Per Curiam - Unpublished 06/26/2013	Genesee	Affirmed But Remanded
COA 308970 CHIMEATIA CURTIS V CITY OF DETROIT Opinion - Per Curiam - Unpublished 06/24/2013	Wayne	L/Ct Judgment/Order Affirmed
COA 311311 JUSTICE STEPHENS V RUBEN DANIELS MIDDLE SCHOOL Opinion - Per Curiam - Unpublished 06/12/2013	Saginaw	Reversed and Remanded
COA 308952 VIVIAN ELLERBEE V CITY OF DETROIT Opinion - Per Curiam - Unpublished 06/12/2013	Wayne	Reversed and Remanded
COA 309345 THOMAS BILAN V MICHAEL MURCHIE Opinion - Per Curiam - Unpublished 06/12/2013	Monroe	Affirm in Part, Reverse in Part, Remanded
COA 308642 ESTATE OF DEBORAH HODGES V CITY OF DEARBORN Opinion - Per Curiam - Unpublished 05/14/2013	Wayne	L/Ct Judgment/Order Reversed
COA 306018 HAROLD HUNTER JR V DAVID SISCO Opinion - Authored - Published 04/02/2013	Genesee	Affirm in Part, Reverse in Part, Remanded

COA 305330 MAURECE PETERS JR V SCHOOL DISTRICT OF THE CITY OF PONTIAC Opinion - Per Curiam - Unpublished 04/02/2013	Oakland	Reversed and Remanded
COA 310056 ESTATE OF AVA ANNMARIE JONES V ELAINE BITNER Opinion - Per Curiam - Published 03/21/2013	Chippewa	Reversed and Remanded
COA 307367 LINDA DINKINS V CITY OF ROYAL OAK Opinion - Per Curiam - Unpublished 03/14/2013	Oakland	Reversed and Remanded
COA 306385 ANDRE THORNTON V JOHN R KING ACADEMIC AND PERFORMING ARTS ACADEMY Opinion - Per Curiam - Unpublished 02/26/2013	Wayne	L/Ct Judgment/Order Affirmed
COA 307719 NICHOLAS A WHITE V ROSEVILLE PUBLIC SCHOOLS Opinion - Per Curiam - Unpublished 02/21/2013	Macomb	L/Ct Judgment/Order Affirmed
COA 307523 JANE DOE V 27TH JUDICIAL DISTRICT COURT Opinion - Per Curiam - Unpublished 02/14/2013	Wayne	L/Ct Judgment/Order Reversed
COA 307683 RAYMOND HERNANDEZ V TOWNSHIP OF CLINTON Opinion - Per Curiam - Unpublished 02/14/2013	Macomb	L/Ct Judgment/Order Affirmed
COA 307727 PATRICIA COLFLESH V VILLAGE OF LEXINGTON Opinion - Per Curiam - Unpublished 02/12/2013	Sanilac	Reversed and Remanded
COA 305923 JOANNE M SEARS V SUBURBAN MOBILITY AUTH FOR REGIONAL TRANSPORT Opinion - Per Curiam - Unpublished 02/07/2013	Macomb	L/Ct Judgment/Order Affirmed
COA 305796 THOMASINE MARTIN V CITY OF ECORSE Opinion - Per Curiam - Unpublished 02/07/2013	Wayne	Reversed and Remanded
COA 309148 LACONDA HICKS ED D V SHERI WASHINGTON Opinion - Per Curiam - Unpublished 02/05/2013	Washtenaw	Affirm in Part, Reverse in Part, Remanded
COA 306560 ESTATE OF HARVEY STEWARD V JEREMY DRIGGETT Opinion - Per Curiam - Unpublished 01/31/2013	Genesee	Affirm in Part, Reverse in Part, Remanded
COA 307686 ELOUNDA WATTS V CITY OF FLINT Opinion - Per Curiam - Unpublished 01/17/2013	Genesee	Reversed and Remanded
COA 308717 FAWAZ GHAITH V DON RAUSCHENBERGER JR Opinion - Per Curiam - Unpublished 01/17/2013	Bay	Reversed and Remanded
COA 307078 ODELL GODBOLD V CITY OF DETROIT Opinion - Per Curiam - Unpublished 01/15/2013	Wayne	L/Ct Judgment/Order Affirmed
COA 305994 LORINE BRANYON V DEBRA LYNN PARK FIELDS Opinion - Per Curiam - Unpublished 01/15/2013	Wayne	L/Ct Judgment/Order Affirmed

# **EXHIBIT 4**

## **FIFTY STATE SURVEY GOVERNMENTAL IMMUNITY APPEALS**

### **1. Alabama**

#### PERMISSIVE APPEAL

From *Ex parte Jackson*, 780 So 2d 681 (Ala, 2000)-

The general rule is that “a writ of mandamus will not issue to review the merits of an order denying a motion for a summary judgment.” *Ex parte Empire Fire & Marine Ins. Co.*, 720 So.2d 893, 894 (Ala.1998) (quoting *Ex parte Central Bank of the South*, 675 So.2d 403 (Ala.1996)). In all but the most extraordinary cases, an appeal is an adequate remedy; however, there are exceptions—for example, when the trial court denies a motion for a summary judgment that is based on an argument that governmental immunity bars the plaintiff’s claim. See, e.g., *Ex parte Butts*, 775 So.2d 173, 177–78 (Ala.2000). In such a case, the defendant may seek pretrial appellate review by petitioning for permission to appeal an interlocutory order in accordance with Rule 5, Ala. R.App. P., or by petitioning for a writ of mandamus. See *id.*

*Ex parte Jackson*, 780 So 2d 681, 684 (Ala, 2000)

AND

From Ala. R. App. P. 5(a)-

(a) **Petition for Permission to Appeal.** A party may request permission to appeal from an interlocutory order in civil actions under limited circumstances. Appeals of interlocutory orders are limited to those civil cases that are within the original appellate jurisdiction of the Supreme Court. A petition to appeal from an interlocutory order must contain a certification by the trial judge that, in the judge's opinion, the interlocutory order involves a controlling question of law as to which there is substantial ground for difference of opinion, that an immediate appeal from the order would materially advance the ultimate termination of the litigation, and that the appeal would avoid protracted and expensive litigation. The trial judge must include in the certification a statement of the controlling question of law.

### **2. Alaska**

None found

### 3. Arizona

#### APPEAL OF RIGHT PERMITTED BY SPECIAL ACTION RULE

From *Pinal Cnty. v Cooper ex rel Cnty. of Maricopa*, 238 Ariz 346; 360 P3d 142 (2015)-

We accept jurisdiction over this special action because a party who claims immunity from suit loses the benefit of the immunity if he is forced to stand trial, and therefore has no adequate remedy by direct appeal. *Mashni v. Foster*, 234 Ariz. 522, 526, ¶ 14, 323 P.3d 1173 (App.2014); see Ariz. R.P. Spec. Act. 1(a).

*Pinal Cnty. v Cooper ex rel Cnty. of Maricopa*, 238 Ariz 346, 349; 360 P3d 142 (2015)

AND

#### AZ ST SPEC ACT Rule 1

**(a)** Relief previously obtained against a body, officer, or person by writs of certiorari, mandamus, or prohibition in the trial or appellate courts shall be obtained in an action under this Rule, and any reference in any statute or rule to any of these writs, unless excepted in the next subsection, shall be deemed to refer to the special action authorized under this Rule. Special forms and proceedings for these writs are replaced by the special action provided by this Rule, and designation of the proceedings as certiorari, mandamus, or prohibition is neither necessary nor proper. Except as authorized by statute, the special action shall not be available where there is an equally plain, speedy, and adequate remedy by appeal; and nothing in these rules shall be construed as enlarging the scope of the relief traditionally granted under the writs of certiorari, mandamus, and prohibition.

**(b)** Where a statute expressly authorizes proceedings under certiorari, mandamus, or prohibition, the proceedings shall be known as a statutory special action, as distinguished from those applications for writs of certiorari, mandamus, or prohibition, originating under A.R.S. §§ 12-2001, 12-2021 or the common law, which are special actions. Where a statutory special action is involved, the questions to be raised and considered are wholly unaffected by this Rule, but the provisions of this Rule as to parties, procedure, interlocutory orders and stays, and judgments shall apply.

#### AZ ST SPEC ACT Rule 1

## 4. Arkansas

### APPEAL OF RIGHT PERMITTED BY COURT RULE

From *Chaney v Union Producing, LLC*, 2020 Ark 388; 611 SW3d 482 (2020)-

An order denying a motion to dismiss or for summary judgment based on the defense of sovereign immunity or the immunity of a government official is an appealable order. See Ark. R. App. P.–Civ. 2(a)(10); *City of Little Rock v. Dayong Yang*, 2017 Ark. 18, at 4, 509 S.W.3d 632, 634. When the refusal to grant a summary-judgment motion has the effect of determining that the appellant is not entitled to immunity from suit, an interlocutory appeal is permitted because the right of immunity from suit is effectively lost if a case goes to trial. *Id.*, 509 S.W.3d at 634–35. Whether a party is immune from suit is purely a question of law and is reviewed de novo on appeal. *Id.*, 509 S.W.3d at 635.

*Chaney v Union Producing, LLC*, 2020 Ark 388, 5; 611 SW3d 482 (2020)

Per Ark. R. App. P.–Civ. 2(a)(10)-

(a) An appeal may be taken from a circuit court to the Arkansas Supreme Court from:

...

(10) An order denying a motion to dismiss or for summary judgment based on the defense of sovereign immunity or the immunity of a government official;  
Ark. R. App. P. Civ. 2

## 5. California

### NO IMMEDIATE APPEAL BY RIGHT, BUT WRIT OF MANDUMUS OR OTHER EXTRAORDINARY WRIT AVAILABLE

From the treatise *California Affirmative Defenses*, § 38:142. Appellate review, 2 Cal. Affirmative Def. § 38:142 (2d ed.)

Although an immediate appeal from a rejection of a claimed immunity is not available in California, as it is in federal court when absolute immunity is claimed,<sup>1</sup> the defendant may file a petition for a writ of mandamus or other extraordinary relief.<sup>2</sup> Courts are likely to consider such a writ because the immunity defense is effectively lost if the defendant must proceed through discovery and trial to obtain appellate relief.<sup>3</sup> In a 1994 case, an effort based on the Supremacy Clause to obtain immediate appellate review in the California courts of the rejection of

immunities founded in federal law failed.<sup>4</sup>

§ 38:142. Appellate review, 2 Cal. Affirmative Def. § 38:142 (2d ed.)

## **6. Colorado**

### APPEAL OF RIGHT BY STATUTE

From Colo Rev Stat Ann 24-10-108 (West)-

Except as provided in sections 24-10-104 to 24-10-106 and 24-10-106.3, sovereign immunity shall be a bar to any action against a public entity for injury which lies in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by a claimant. If a public entity raises the issue of sovereign immunity prior to or after the commencement of discovery, the court shall suspend discovery, except any discovery necessary to decide the issue of sovereign immunity and shall decide such issue on motion. The court's decision on such motion shall be a final judgment and shall be subject to interlocutory appeal.

Colo Rev Stat Ann 24-10-108 (West)

## **7. Connecticut**

### APPEALABLE OF RIGHT PER CONNECTICUT SUPREME COURT

From *Miller v Egan*, 265 Conn 301; 828 A2d 549 (2003)-

"The general rule is that the denial of a motion to dismiss is an interlocutory ruling and, therefore, is not a final judgment for purposes of appeal." (Internal quotation marks omitted.) *Martinez v. Dept. Of Public Safety*, 263 Conn. 74, 77 n. 5, 818 A.2d 758 (2003). The denial of a motion to dismiss based on a colorable claim of sovereign immunity, by contrast, "is an immediately appealable final judgment because the order or action so concludes the rights of the parties that further proceedings cannot affect them." (Internal quotation marks omitted.) *Id.*

*Miller v Egan*, 265 Conn 301, 304; 828 A2d 549 (2003)(fn. 2)



AND

From *Caverly v State*, 342 Conn 226; 269 A3d 94 (2022)-

Although the denial of a motion to dismiss generally is a nonappealable interlocutory ruling, “[t]he denial of a motion to dismiss based on a colorable claim of sovereign immunity, by contrast, is an immediately appealable final judgment because the order or action so concludes the rights of the parties that further proceedings cannot affect them.” (Internal quotation marks omitted.) *Miller v. Egan*, 265 Conn. 301, 303 n.2, 828 A.2d 549 (2003). We have explained that “a colorable claim is one that is superficially well founded but that may ultimately be deemed invalid .... For a claim to be colorable, the defendant need not convince the ... court that he necessarily will prevail; he must demonstrate simply that he *might* prevail.” (Citation omitted; emphasis in original; internal quotation marks omitted.) *Sena v. American Medical Response of Connecticut, Inc.*, 333 Conn. 30, 45, 213 A.3d 1110 (2019). The plaintiff does not dispute that the state has raised a colorable claim of sovereign immunity under § 4-160b (a).

*Caverly v State*, 342 Conn 226, 232; 269 A3d 94 (2022)

## 8. Delaware

NO APPEAL OF RIGHT BUT MAY BE PERMISSIBLE BY COURT RULE

DE R S CT Rule 42-

**(a) Exercise of Jurisdiction.** The Court's jurisdiction to hear and determine appeals in civil cases from interlocutory orders of a trial court, including a trial court acting as an intermediate appellate court in the review of a ruling, decision or order of a court or an administrative agency, shall be exercised in accordance with this rule as to certification and acceptance of interlocutory appeals. All time periods under this rule should be calculated under Supreme Court Rule 11.

### **(b) Criteria to Be Applied in Determining Certification and Acceptance of**

#### **Interlocutory Appeals.**

(i) No interlocutory appeal will be certified by the trial court or accepted by this Court unless the order of the trial court decides a substantial issue of material importance that merits appellate review before a final judgment.

(ii) Interlocutory appeals should be exceptional, not routine, because they disrupt the normal procession of litigation, cause delay, and can threaten to exhaust scarce party and judicial resources. Therefore, parties should only ask for the right to seek interlocutory review if they believe in good faith that there are substantial benefits that will outweigh the certain costs that accompany an interlocutory appeal.

(iii) Any application for interlocutory review shall contain a statement that the applicant and the applicant's counsel have determined in good faith that the application meets the criteria set forth in this paragraph. Consistent with the principles set forth in subparagraph (ii) of this paragraph, in deciding whether to certify an interlocutory appeal, the trial court should consider whether;

...  
(G) Review of the interlocutory order may terminate the litigation;

DE R S CT Rule 42

## 9. Florida

### APPEAL OF RIGHT BY COURT RULE

Fla. R. App. P. 9.130

#### **(a) Applicability.**

(1) This rule applies to appeals to the district courts of appeal of the nonfinal orders authorized herein and to appeals to the circuit court of nonfinal orders when provided by general law. Review of other nonfinal orders in such courts and nonfinal administrative action shall be by the method prescribed by rule 9.100.

(2) Appeals of nonfinal orders in criminal cases shall be as prescribed by rule 9.140.

(3) Appeals to the district courts of appeal of nonfinal orders are limited to those that:

...

(F) deny a motion that:

(i) asserts entitlement to absolute or qualified immunity in a civil rights claim arising under federal law;

(ii) asserts entitlement to immunity under section 768.28(9), Florida Statutes; or

(iii) asserts entitlement to sovereign immunity;

...

Fla. R. App. P. 9.130

## 10. Georgia

### PERMISSIVE APPEAL THROUGH INTERLOCUTORY APPEAL PROCESS

*From Rivera v Washington*, 298 Ga 770; 784 SE2d 775 (2016)-

The collateral order doctrine applied in *Canas*, supra, pertains to appellate review. "OCGA § 5-6-34(a)(1)<sup>3</sup> authorizes direct appeals only from 'final judgments [of the trial court], that is to say, where the case is no longer pending in the court below.' " *Sosniak v. State*, 292 Ga. 35, 36(2), 734 S.E.2d 362 (2012) (Footnote omitted.). When a trial court grants a motion to dismiss based on a defense such as sovereign or quasi-judicial immunity, the case is final and may be appealed under OCGA § 5-6-34(a)(1). However, if such a motion is denied,

the case remains "pending in the court below" and continues on to trial. OCGA § 5-6-34(a)(2) through (12) authorize direct appeals of 11 specific types of trial court rulings that the General Assembly has deemed important enough to the case, or dispositive enough of the case, to warrant an immediate appeal, even though such rulings are often interlocutory rather than final judgments. But orders related to [defenses such as sovereign and quasi-judicial immunity] are not listed. The usual remedy for a party aggrieved by an order that does not terminate the case in the trial court, and is not authorized for direct appeal by OCGA § 5-6-34(a)(2)-(12), is to seek a certificate of immediate review from the trial court and then file an application for interlocutory appeal.

*Rivera v Washington*, 298 Ga 770, 773-74; 784 SE2d 775 (2016)

ASLO SEE

*From Georgia Appellate Practice-*

An order rejecting a defense of sovereign or qualified immunity is subject to interlocutory appeal.<sup>13</sup> In federal court, determinations in 42 U.S.C.A. § 1983 cases that a government defendant is not entitled to sovereign immunity as a matter of law are subject to immediate direct appeal. Nevertheless, such government defendants still must secure certificates of immediate review in when such determinations are made in such actions in the Georgia state courts.<sup>14</sup> Though the trial court need not grant certificates in such cases, the Georgia Supreme Court has stated that it is better policy and practice to address immunity questions before other substantive questions, and therefore to grant certificates to permit an interlocutory appeal to proceed if there is any substantial question that immunity may exist.<sup>15</sup>

§ 15:2. Interlocutory applications in direct-appeal and discretionary cases—Specific cases, Ga. Appellate Practice § 15:2

## 11. Hawaii

### APPEAL OF RIGHT ALLOWED FOR CERTAIN IMMUNITY DEFENSES

[D]enials of absolute legislative immunity meet the three-part collateral order test ...” *Greer v. Baker*, 137 Haw. 249, 253, 369 P.3d 832, 836 (2016)

## 12. Idaho

### DENIAL OF SUMMARY JUDGMENT GENERALLY NOT APPEALABLE

Generally, this Court will not review a district court's denial of a motion for summary judgment because “[a]n order denying summary judgment is neither a final order that can be directly appealed, nor is it an order that can be reviewed on an appeal from a final judgment in the action.” *Grabicki v. City of Lewiston*, 154 Idaho 686, 692, 302 P.3d 26, 32 (2013)

## 13. Illinois

### PERMISSIVE INTERLOCUTORY APPEAL BY COURT RULE

From *Moore v Green*, 219 Ill 2d 470; 848 NE2d 1015 (2006)

The City filed a motion to dismiss Moore's complaint (see 735 ILCS 5/2–619(a)(9) (West 2002)), arguing that section 4–102 of the Tort Immunity Act, which provides absolute immunity for failing to provide police protection, to prevent or solve crimes, or to identify and apprehend criminals, and section 4–107 of that Act, which provides absolute immunity for failing to make an arrest, barred Moore's claims. Green and Cornelius joined this motion. Moore responded that section 305 of the Domestic Violence Act, which provides limited immunity for failing to render emergency assistance or enforce the statute and contains an exception for willful and wanton conduct, trumped sections 4–102 and 4–107. The trial court denied the defendants' motion to dismiss. The City filed a motion to reconsider and alternatively to allow an interlocutory appeal of a certified question under Supreme Court Rule 308(a) (155 Ill.2d R. 308(a)). Green and Cornelius again joined this motion. The trial court denied the motion to reconsider, but concluded that there was substantial ground for disagreement on the immunity question raised by the defendants and that an immediate appeal could terminate the case

*Moore v Green*, 219 Ill 2d 470, 475; 848 NE2d 1015 (2006)

## **14. Indiana**

### PERMISSIVE INTERLOCUTORY APPEAL BY COURT RULE

“The City's motion for summary judgment was denied, and, upon the City's request, the trial court certified the order for interlocutory appeal. The Court of Appeals accepted interlocutory jurisdiction.”

*City of Beech Grove v. Beloat*, 50 N.E.3d 135, 137 (Ind. 2016)

## **15. Iowa**

### PERMISSIVE INTERLOCUTORY APPEAL BY COURT RULE

*Lennette v. State*, 924 N.W.2d 878 (Iowa Ct. App. 2018)

## **16. Kansas**

Not found

## **17. Kentucky**

### APPEAL OF RIGHT BY SUPREME COURT RULING

From *Breathitt Cnty. Bd of Ed v Prater*, 292 SW3d 883 (Ky, 2009)-

Except for CR 54.02, which permits certain interlocutory appeals that promote judicial economy, these examples are all provisions authorizing interlocutory appeals to address substantial claims of right which would be rendered moot by litigation and thus are not subject to meaningful review in the ordinary course following a final judgment. We agree with the Court of Appeals that orders denying claims of immunity raise this same concern and likewise should be subject to prompt appellate review.

As we observed recently in *Rowan County v. Sloas*, 201 S.W.3d 469 (Ky.2006), immunity entitles its possessor to be free “from the burdens of defending the action, not merely ... from liability.” *Id.* at 474. *See also Lexington–Fayette Urban County Government v. Smolic*, 142 S.W.3d 128, 135 (Ky.2004). (“Immunity from suit includes protection against the cost of trial and the burdens of broad-reaching discovery that are peculiarly disruptive of effective government.”) (citation and internal quotation marks omitted). Obviously such an entitlement cannot be vindicated following a final judgment for by then the party claiming immunity has already borne the costs and burdens of defending the action. For this reason, the United States Supreme Court has recognized in immunity cases an exception to the

federal final judgment rule codified at 28 U.S.C. § 1291. In *Mitchell v. Forsyth*, 472 U.S. 511, 105 S.Ct. 2806, 86 L.Ed.2d 411 (1985), the Court reiterated its position that “the denial of a substantial claim of absolute immunity is an order appealable before final judgment.” *Id.* at 525, 105 S.Ct. 2806, citing *Nixon v. Fitzgerald*, 457 U.S. 731, 102 S.Ct. 2690, 73 L.Ed.2d 349 (1982). We find the Supreme Court's reasoning persuasive, and thus agree with the Court of Appeals that an order denying a substantial claim of absolute immunity is immediately appealable even in the absence of a final judgment.

*Breathitt Cnty. Bd of Ed v Prater*, 292 SW3d 883, 886–87 (Ky, 2009)

## 18. Louisiana

Not found.

## 19. Maine

IMMEDIATE APPEAL OF RIGHT PERMITTED UNDER “DEATH KNELL” EXCEPTION TO FINAL JUDGMENT RULE

From *Webb v Haas*, 728 A2d 1261, 1264 (Me, 1999)-

Our final judgment rule generally precludes the immediate review of the denial of a summary judgment. *Andrews v. Department of Env'tl. Protection*, 1998 ME 198, ¶ 4, 716 A.2d 212, 215. We have determined, however, that “ ‘the denial of a motion for a summary judgment based on a claim of immunity is immediately reviewable pursuant to’ the death knell exception to the final judgment rule.” *Id.* (quoting *J.R.M., Inc. v. City of Portland*, 669 A.2d 159, 160 & n. 1 (Me.1995)). The death knell exception “permits an appeal from an interlocutory order where substantial rights of a party will be irreparably lost if review is delayed until final judgment.” *Id.* (quoting *Cook v. Cook*, 574 A.2d 1353, 1354 (Me.1990)).

*Webb v Haas*, 728 A2d 1261, 1264 (Me, 1999)

## 20. Maryland

NO INTERLOCUTORY APPEAL

No interlocutory appeal per *Dawkins v Baltimore City Police Dept*, 376 Md 53; 827 A2d 115 (2003)-

As a general rule, interlocutory trial court orders rejecting defenses of common law sovereign immunity, governmental immunity, public official immunity, statutory immunity, or any other type of immunity, are not appealable under the Maryland collateral order doctrine. Whether, and under what circumstances, interlocutory orders overruling immunity defenses asserted by the Governor, Lieutenant Governor, Comptroller, Treasurer, Attorney General, Speaker of the House, President of the Senate, or judges as defined in Article IV, § 2, of the Maryland Constitution, are immediately appealable under the collateral order doctrine will have to be determined in any future cases that might arise. *Cf. Mandel v. O'Hara*, 320 Md. 103, 134, 576 A.2d 766, 781 (1990). Interlocutory trial court orders overruling immunity claims by other government officials, employees, departments, agencies, entities, units, or subdivisions, or by private persons or entities, are not appealable under the doctrine.

*Dawkins v Baltimore City Police Dept*, 376 Md 53, 65; 827 A2d 115 (2003)

## 21. Massachusetts

### APPEAL OF RIGHT BY DOCTRINE OF PRESENT EXECUTION

From *Elles v Zoning Bd of Appeals of Quincy*, 450 Mass 671; 881 NE2d 129 (2008)-

As a general rule, an aggrieved litigant cannot as a matter of right pursue an immediate appeal from an interlocutory order unless a statute or rule authorizes it. *Maddocks v. Ricker*, 403 Mass. 592, 597, 531 N.E.2d 583 (1988), and cases cited. One narrow exception to this principle is where the interlocutory ruling “will interfere with rights in a way that cannot be remedied on appeal” from the final judgment, and where the matter is “collateral” to the merits of the controversy. *Id.* at 597–600, 531 N.E.2d 583. Accord *Kent v. Commonwealth*, 437 Mass. 312, 315–317, 771 N.E.2d 770 (2002); *Fabre v. Walton*, 436 Mass. 517, 521–522, 781 N.E.2d 780 (2002), *S.C.*, 441 Mass. 9, 802 N.E.2d 1030 (2004); *Borman v. Borman*, 378 Mass. 775, 780–782, 393 N.E.2d 847 (1979). This exception is known as the doctrine of present execution. See generally H.J. Alperin, Summary of Basic Law § 4.11 (4th ed.2006) (collecting cases discussing doctrine of present execution).

Our courts have applied the doctrine of present execution only in very limited circumstances. For example, we have held that interlocutory orders relating to claims of government immunity from suit are subject to the doctrine because “[t]he right to immunity from suit would be ‘lost forever’ if an order denying it were not appealable until the close of litigation ....” *Brum v. Dartmouth*, 428 Mass. 684, 688, 704 N.E.2d 1147 (1999).

*Elles v Zoning Bd of Appeals of Quincy*, 450 Mass 671, 673–74; 881 NE2d 129 (2008)

## 22. Michigan

APPEAL OF RIGHT BY COURT RULE

## 23. Minnesota

APPEAL OF RIGHT BY COURT RULE

From *McCullough & Sons, Inc v City of Vadnais Hts*, 883 NW2d 580 (Minn, 2016)-

The second class of cases in which we have recognized a right to an immediate appeal is the denial of a motion seeking immunity. Relying on precedent from the Supreme Court of the United States, we recognized the right to an immediate appeal of immunity decisions in *Kastner*, 646 N.W.2d at 238–39, which involved a non-profit defendant that sought recreational-use immunity and governmental immunity as a recipient of trail funds from the Minnesota Department of Natural Resources. *Id.* at 236. The rationale for allowing an immediate appeal was the nature of immunity itself, which we characterized as a “right not to stand trial at all—a right that is lost if the case is permitted to proceed.” *See id.* at 239 (citing *Mitchell v. Forsyth*, 472 U.S. 511, 526, 105 S.Ct. 2806, 86 L.Ed.2d 411 (1985)).

*McCullough & Sons, Inc v City of Vadnais Hts*, 883 NW2d 580, 590–91 (Minn, 2016)

AND

From *Kastner v Star Trails Ass’n*, 646 NW2d 235 (Minn, 2002)-

Generally, an order denying a motion for summary judgment is not immediately appealable unless the district court certifies that the question is important and doubtful. Minn. R. Civ.App. P. 103.03(i); *McGowan v. Our Savior’s Lutheran Church*, 527 N.W.2d 830, 832 (Minn.1995). But certain orders are immediately appealable under Minn. R. Civ.App. P. 103.03(j), even absent an important and doubtful certification. In these cases, the right to appeal is derived not from procedural rules, but from fundamental principles relating to the finality of judgments. *See In re State & Regents Bldg. Asbestos Cases*, 435 N.W.2d 521, 522 (Minn.1989). For example, we have held that interlocutory appeal is available for review of orders denying motions to dismiss for lack of personal jurisdiction, subject matter jurisdiction, and government immunity. *See, e.g., Hunt v. Nevada State Bank*, 285 Minn. 77, 88–91, 172 N.W.2d 292, 299–301 (1969); *McGowan*, 527 N.W.2d at 832–33; *Anderson v. City of Hopkins*, 393 N.W.2d 363, 364 (1986).<sup>7</sup>

*Kastner v Star Trails Ass’n*, 646 NW2d 235, 238 (Minn, 2002)



## **24. Mississippi**

### **APPEAL BY LEAVE BY COURT RULE**

From *Hinds Cnty. v Perkins*, 64 So 3d 982 (Miss, 2011)-

This Court has never recognized that governmental immunity from suit establishes a right directly to appeal a pretrial ruling denying immunity. Instead, denials of immunity at the summary judgment stage are reviewed via the interlocutory appeal process. *See e.g., Gorton v. Rance*, 52 So.3d 351 (Miss.2011); *Miss. Dep't of Mental Health v. Shaw*, 45 So.3d 656, 657 (Miss.2010); *Covington County Sch. Dist. v. Magee*, 29 So.3d 1 (Miss.2010).

*Hinds Cnty. v Perkins*, 64 So 3d 982, 986 (Miss, 2011)

See MS R RAP Rule 5 Interlocutory Appeal by Permission

## **25. Missouri**

### **NO INTERLOCUTORY APPEAL**

From *Steinmetz v Missouri Hwy & Transp Com'n*, 645 SW2d 36 (Mo Ct App, 1982)-

The orders denying the Commission's two motions for summary judgment on the theory that the Commission was immune from liability also fail to constitute final appealable judgments. It is well settled that an order overruling a motion for summary judgment is not a final appealable judgment. *Guthrie v. Reliance Construction Co., Inc.*, 612 S.W.2d 366, 368[1] (Mo.App.1980). For this reason, the Commission's cross-appeal is dismissed.

*Steinmetz v Missouri Hwy & Transp Com'n*, 645 SW2d 36, 38 (Mo Ct App, 1982)

SEE ALSO

Mo Ann Stat 512.020 (West)

## **26. Montana**

Not found

## **27. Nebraska**

### **APPEAL OF RIGHT ALLOWED BY STATUTE**

Per Neb. Rev. Stat. Ann. § 25-1902 (West)-

(1) The following are final orders which may be vacated, modified, or reversed:

- (a) An order affecting a substantial right in an action, when such order in effect determines the action and prevents a judgment;
  - (b) An order affecting a substantial right made during a special proceeding;
  - (c) An order affecting a substantial right made on summary application in an action after a judgment is entered; and
  - (d) An order denying a motion for summary judgment when such motion is based on the assertion of sovereign immunity or the immunity of a government official.
- (2) An order under subdivision (1)(d) of this section may be appealed pursuant to section 25-1912 within thirty days after the entry of such order or within thirty days after the entry of judgment.

Neb. Rev. Stat. Ann. § 25-1902 (West)

## **28. Nevada**

NOT APPEALABLE BY COURT RULE

Nev. R. App. P. 3A (Listing judgments and orders that are appealable by right as a final judgment or interlocutory judgment).

## **29. New Hampshire**

DISCRETIONARY BY COURT RULE

(1) The supreme court may, in its discretion, decline to accept an interlocutory appeal, or any question raised therein, from a trial court order or ruling. The interlocutory appeal statement shall contain (a) a list of all parties of record and their counsel, the addresses of all parties and counsel, and the New Hampshire Bar identification numbers of counsel; (b) a statement of the facts necessary to an understanding of the controlling question of law as determined by the order or ruling of the trial court, and a statement as to whether any transcript will be necessary to decide the question if the interlocutory appeal is accepted by the court; (c) a statement of the question itself; (d) a statement of the reasons why a substantial basis exists for a difference of opinion on the question and why an interlocutory appeal may materially advance the termination or clarify further proceedings of the litigation, protect a party from substantial and irreparable injury, or present the opportunity to decide, modify or clarify an issue of general importance in the administration of justice; and (e) the signature of the trial court transferring the question.

## NH R S CT Rule 8

*Bergeron v. City of Manchester*, 140 N.H. 417, 419, 666 A.2d 982, 983 (1995) (“This interlocutory appeal from ruling, see Sup.Ct.R. 8, arises from the Superior Court (Barry, J.) denial of defendants State of New Hampshire Department of Transportation (DOT) and Frank B. Lindh, Jr.'s motions for summary judgment and defendant City of Manchester's (city) motion to dismiss.”)

## 30. New Jersey

### PERMISSIVE INTERLOCUTORY APPEAL

*S.P. v. Newark Police Dep't*, 428 N.J. Super. 210, 212, 52 A.3d 178, 179 (App. Div. 2012) (“On leave granted, the City of Newark (City) appeals denial of a motion for summary judgment seeking to dismiss the complaint ...”)

## 31. New Mexico

### PERMISSIVE INTERLOCUTORY APPEAL

Application for appellate review of non-final orders is allowed only in limited circumstances when the district court certifies: (1) the order involves a controlling question of law on which there is substantial ground for difference of opinion; and (2) resolution of the question will materially advance the ultimate termination of the litigation. *See* § 39–3–4. The statute requires that the application be filed within ten days of the interlocutory order. District court certification, timely filing of the application and appellate court discretion in accepting the application all operate to ensure that the underlying purpose of interlocutory appeals is served. *See Nuclear Engineering Co. v. Scott*, 660 F.2d 241 (7th Cir.1981), *cert. denied*, 455 U.S. 993, 102 S.Ct. 1622, 71 L.Ed.2d 855 (1982); *see also* Note, *New Mexico's Analogue to 28 U.S.C. § 1292(b): Interlocutory Appeals Come to the State Courts*, 2 N.M.L.Rev. 113 (1972); Note, *Interlocutory Appeals in the Federal Courts Under 28 U.S.C. § 1292(b)*, 88 Harv.L.Rev. 607 (1974–1975).

*Candelaria v. Middle Rio Grande Conservancy Dist.*, 1988-NMCA-065, ¶ 5, 107 N.M. 579, 581, 761 P.2d 457, 459

## 32. New York

Not found

### 33. North Carolina

#### APPEAL OF RIGHT BY NORTH CAROLINA APPELLATE COURT DECISIONS

It is well-settled in North Carolina that “the denial of a motion to dismiss based upon the defense of sovereign immunity affects a substantial right and is thus immediately appealable.” *RPR & Assocs. v. State*, 139 N.C. App. 525, 527, 534 S.E.2d 247, 250 (2000) (citations omitted); *see Richmond Cnty. Bd. of Educ. v. Cowell*, 225 N.C. App. 583, 586 739 S.E.2d 566, 568 (2013) (addressing the merits of the defendants’ sovereign immunity claim despite the interlocutory nature of the appeal from a motion to dismiss); *Faulkenbury v. Tchrs.’ & State Emps.’ Ret. Sys. of N.C.*, 335 N.C. 158, 160 436 S.E.2d 821, 822 (1993) (affirming the Court of Appeals’ decision, which denied the defendants’ motion to dismiss based on the defenses of sovereign immunity, qualified immunity, and official immunity). An appeal of a motion to dismiss grounded “on sovereign immunity presents a question of personal jurisdiction rather than subject matter jurisdiction ....” *Data Gen. Corp.*, 143 N.C. App. at 100, 545 S.E.2d at 246.

*N Carolina State Conference of NAACP v State*, 2022-NCCOA-236, ¶ 12; 870 SE2d 713 (NC Ct App, 2022)

### 34. North Dakota

Not found.

### 35. Ohio

#### APPEAL OF RIGHT BY STATUTE

R.C. 2744.02(C)

For the foregoing reasons, we hold that R.C. 2744.02(C) permits a political subdivision to appeal a trial court order that denies it the benefit of an alleged immunity from liability under R.C. Chapter 2744, even when the order makes no determination pursuant to Civ.R. 54(B).

*Sullivan v. Anderson Twp.*, 2009-Ohio-1971, ¶¶ 12-13, 122 Ohio St. 3d 83, 85–86, 909 N.E.2d 88, 90–91

### 36. Oklahoma

Not found

### 37. Oregon

Not found

### 38. Pennsylvania

#### APPEAL OF RIGHT BY COURT RULE

From *Brooks v. Ewing Cole, Inc.*, 259 A.3d 359 (Pa. 2021)-

Because sovereign immunity protects government entities from a lawsuit itself, we conclude that a sovereign immunity defense is irreparably lost if appellate review of an adverse decision on sovereign immunity is postponed until after final judgment. Subjecting a governmental entity, which claims it is immune, to the legal process undermines the purposes of sovereign immunity. *See Sci. Games Int'l*, 66 A.3d at 755; *Mullin v. Commonwealth, Dep't of Transp.*, 582 Pa. 127, 870 A.2d 773, 779 (2005) (stating the purpose of immunity is to protect government revenues from “unnecessary depletion”); *Montgomery*, 140 A.2d at 104 (“the purpose of absolute immunity is to foreclose the possibility of suit”). Engaging in litigation requires a governmental entity to expend taxpayer dollars on its defense and to divert employees’ time from conducting government business. Further, forcing governmental entities to litigate claims from which they may be immune has a chilling effect on government policymaking. *See Sci. Games Int'l*, 66 A.3d at 755; *see also Dorsey v. Redman*, 626 Pa. 195, 96 A.3d 332, 343, 345 (2014) (stating “[t]he underlying purpose [of official immunity] is to allow those in governmental policy making positions to have the ability to act without fear of litigation and unlimited damages” and concluding official immunity is immunity from suit not merely liability). These protections of sovereign immunity are irreparably lost if a governmental entity must litigate a case to final judgment before it can obtain appellate review of an adverse ruling on its invocation of sovereign immunity.

*Brooks v. Ewing Cole, Inc.*, 259 A.3d 359, 373 (Pa. 2021)

ALSO SEE

Pa.R.A.P. 313-

**(a) General rule.**--An appeal may be taken as of right from a collateral order of a trial court or other government unit.

### 39. Rhode Island

Not found

### 40. South Carolina

**No case found involving governmental entity itself, just individual members. When individual member, no absolute immunity, and no right to immediate appeal.**

Individual members of a local county council are not entitled to absolute immunity. *See Richardson v. McGill*, 273 S.C. 142, 146, 255 S.E.2d 341, 343 (1979) (noting that privilege depends not on rigid requirements but is determined by consideration of public policy). Furthermore, the trial court's denial of the individual council members' motion to dismiss does not preclude the individual council members from raising the issues presented in their motion at a later point in the case. *See Frazier v. Badger*, 361 S.C. 94, 101, 603 S.E.2d 587, 590 (2004) (stating that immunity under the Tort Claims Act is an affirmative defense that must be proved at trial); *Sanders v. Prince*, 304 S.C. 236, 240, 403 S.E.2d 640, 643 (1991) (stating that when a government employee's conduct constitutes actual malice, he is not entitled to immunity from suit).

The South Carolina Tort Claims Act provides "[n]othing in this chapter may be construed to give an employee of a governmental entity immunity from suit ... if it is proved that the employee's conduct was not within the scope of his official duties or that it constituted actual fraud, actual malice, intent to harm, or a crime involving moral turpitude." S.C.Code Ann. § 15-78-70(b) (2005). Were we to recognize that the individual members of the county council enjoyed absolute immunity from suit, the above statute would be meaningless. Additionally, the individual council members will be free to raise such issues as qualified immunity, qualified privilege, and the provisions of the Tort Claims Act, at later stages of this case. For these reasons, we hold that the denial of the individual council members' motion to dismiss is not presently reviewable.<sup>5</sup>

*Brown v. County Of Berkeley*, 366 S.C. 354, 361-62, 622 S.E.2d 533, 537-38 (2005)

#### **41. South Dakota**

Not found

## 42. Tennessee

### PERMISSIVE APPEAL BY COURT RULE

The Tennessee Department of Safety and Homeland Security and Knox County both filed motions to dismiss the complaints against them on sovereign immunity grounds. After the motions to dismiss were denied, permission to appeal under Rule 9 was granted. In this interlocutory appeal, we have been asked to determine whether the trial court properly ruled on the sovereign immunity issue. After review, we affirm the trial court's denials of the motions to dismiss and remand this matter to the trial court for further proceedings.

*Morton v. Knox Cnty. Sheriff's Dep't*, No. E201702077COAR9CV, 2019 WL 645042 (Tenn. Ct. App. Feb. 15, 2019)

AND

Rule 9. Interlocutory Appeal by Permission From the Trial Court  
Tenn. R. App. P. 9

## 43. Texas

### INTERLOCUTORY APPEAL ALLOWED UNDER PLEA TO THE JURISDICTION

From the treatise *O'Connor's Texas Causes of Action*-

When a governmental unit as defined by Texas Civil Practice & Remedies Code § 101.001 files a plea to the jurisdiction (or some other procedural vehicle) asserting immunity from suit, either party—the plaintiff or the government—can file an interlocutory appeal of a decision that grants or denies the plea. Tex. Civ. Prac. & Rem. Code § 51.014(a)(8); *Rosenberg Dev. Corp. v. Imperial Performing Arts, Inc.*, 571 S.W.3d 738, 747 (Tex.2019); *City of Magnolia 4A Econ. Dev. Corp. v. Smedley*, 533 S.W.3d 297, 299 (Tex.2017); *Klein v. Hernandez*, 315 S.W.3d 1, 2–3 (Tex.2010); *Texas A&M Univ. Sys. V. Koseoglu*, 233 S.W.3d 835, 843 (Tex.2007); *see City of Houston v. Kilburn*, 849 S.W.2d 810, 811 (Tex.1993) (term “person” in § 51.014(a) includes government and governmental subdivisions); *see, e.g., Town of Shady Shores v. Swanson*, 590 S.W.3d 544, 549 (Tex.2019) (town could file interlocutory appeal taken from order denying summary judgment on merits); *University of the Incarnate Word v. Redus*, 518 S.W.3d 905, 911 (Tex.2017) (private university that operated state-authorized police department could file interlocutory appeal); *LTTS Charter Sch., Inc. v. C2 Constr., Inc.*, 342 S.W.3d 73, 78 (Tex.2011) (open-

enrollment charter school could file interlocutory appeal because it was governmental unit); *Houston Mun. Empls. Pension Sys. V. Ferrell*, 248 S.W.3d 151, 156 (Tex.2007) (municipal pension system could file interlocutory appeal). Whether an entity is a governmental unit that can file an interlocutory appeal is a separate issue from whether the entity is entitled to immunity, which is based on an analysis of the nature and purposes of sovereign immunity. *Rosenberg Dev. Corp.*, 571 S.W.3d at 748; *University of the Incarnate Word*, 518 S.W.3d at 911. For a discussion of the arguments that can be made to support a plea to the jurisdiction based on immunity from suit, see “Plea to the jurisdiction,” ch. 24-A, § 3.3.1.

§ 4. Appealing sovereign & governmental immunity, O’Connor’s Texas Causes of Action Ch. 24-A § 4 (2023 ed.)

#### **44. Utah**

##### **INTERLOCUTORY APPEAL PERMITTED**

From *Xiao Yang Li v. Univ. of Utah*, 2006 UT 57, ¶ 4, 144 P.3d 1142-

The State sought interlocutory appeal, claiming immunity under the Immunity Act, and we granted review.

*Xiao Yang Li v. Univ. of Utah*, 2006 UT 57, ¶ 4, 144 P.3d 1142, 1144

#### **45. Vermont**

##### **INTERLOCUTORY APPEAL PERMITTED UNDER COURT RULE**

From *Lafond v. Vermont Dep’t of Soc. & Rehab. Servs.*, 167 Vt. 407, 708 A.2d 919 (1998)-

The trial court denied the Department’s motion for summary judgment based upon a claim of sovereign immunity, and we allowed an interlocutory appeal. V.R.A.P. 5(b). We now hold that the trial court erred in denying the Department’s motion for summary judgment, and therefore reverse.

*Lafond v. Vermont Dep’t of Soc. & Rehab. Servs.*, 167 Vt. 407, 408, 708 A.2d 919, 919 (1998)

#### **46. Virginia**

##### **APPEAL BY RIGHT BY COURT RULES**



B. When, prior to the commencement of trial, the circuit court has entered in any pending civil action an order granting or denying a plea of sovereign, absolute, or qualified immunity that, if granted, would immunize the movant from compulsory participation in the proceeding, the order is eligible for immediate appellate review. Any person aggrieved by such order may, within 15 days of the entry of such order, file a petition for review with the Supreme Court in accordance with the procedures set forth in § 8.01-626.

Va. Code Ann. § 8.01-675.5 (West)

AND

When a circuit court (i) grants a preliminary or permanent injunction, (ii) refuses such an injunction, (iii) having granted such an injunction, dissolves or refuses to enlarge it, or (iv) enters an order reviewable pursuant to subsection B of § 8.01-675.5, an aggrieved party may file a petition for review with the clerk of the Supreme Court within 15 days of the circuit court's order.

The clerk shall assign the petition to a three-justice panel of the Supreme Court. The aggrieved party shall serve a copy of the petition for review on the counsel for the opposing party, which may file a response within seven days from the date of service unless the court determines a shorter time frame. The petition for review shall be accompanied by a copy of the proceedings before the circuit court, including the original papers and the circuit court's order respecting the injunction. The Supreme Court may take such action thereon as it considers appropriate under the circumstances of the case.

Nothing in this section shall be construed to prevent the Supreme Court from resolving a petition for review by an order joined by more than three justices.

Va Code Ann 8.01-626 (West)

## **47. Washington**

Not found

## **48. West Virginia**

### **INTERLOCUTORY APPEAL PERMITTED UNDER COLLATERAL ORDER DOCTRINE**

West Virginia Code § 58-5-1 provides that appeals may be taken in civil actions from "a final judgment of any circuit court or from an order of any circuit court constituting a final judgment." Consistent therewith, we have held that "[t]ypically, interlocutory orders are not subject to this Court's appellate jurisdiction." *Credit Acceptance Corp. v. Front*, 231 W. Va. 518, 522,

745 S.E.2d 556, 560 (2013) (citing *Coleman v. Sopher*, 194 W. Va. 90, 94, 459 S.E.2d 367, 371 (1995)) (“The usual prerequisite for our appellate jurisdiction is a final judgment, final in respect that it ends the case.”). “This ‘rule of finality’ is not an absolute rule,” however, as this Court has carved out a “narrow category of orders that are subject to permissible interlocutory appeal.” *Id.* Those include interlocutory orders specifically made appealable by statute or rule; prohibition matters; certified questions; judgment orders entered pursuant to West Virginia Rules of Civil Procedure 54(b); and orders that fall within the “collateral order” doctrine.<sup>18</sup> Included among the latter are orders denying a motion for arbitration, and orders denying a motion to dismiss on grounds of immunity.

*Est. of Gomez by & Through Gomez v. Smith*, 243 W. Va. 491, 503, 845 S.E.2d 266, 278 (2020)

## **49. Wisconsin**

Not found

## **50. Wyoming**

APPEAL OF RIGHT BY WYOMING SUPREME COURT DECISION

We have, in the past, granted a writ of review for the purpose of examining a denial of a governmental entity's motion for summary judgment on the basis of immunity under the WGA. *See, e.g., City of Cheyenne v. Huitt*, 844 P.2d 1102 (Wyo.1993). However, the same policies which favor an exception to the general rule in qualified immunity cases that summary judgment denials are not appealable apply to claims of governmental immunity. We conclude, therefore, an order denying a summary judgment on a claim of governmental immunity is appealable and it is not necessary to grant discretionary review in such circumstances. Because we have jurisdiction to consider the State's appeal of the district court's order denying its motion for summary judgment on the immunity issue, the writ of review is superfluous and we, therefore, dismiss it as unnecessarily granted.

*State, Dept of Corr v Watts*, 177 P3d 793, 796 (Wy, 2008)

## **51. District of Columbia**

INTERLOCUTORY APPEAL PERMITTED UNDER COLLATERAL ORDER DOCTRINE

WMATA first argues that the denial of sovereign immunity is an immediately appealable order under the collateral order doctrine. That is an issue of first impression for this court, and we agree with WMATA that the rejection of its sovereign immunity defense is an appealable interlocutory order. *See Abdulwali v. WMATA*, 315 F.3d 302, 305 (D.C. Cir. 2003); *KiSKA Constr. Corp. v. WMATA*, 167 F.3d 608, 610-11 (D.C. Cir. 1999).

*Washington Metro Area Transit Auth v Nash-Flegler*, 272 A3d 1171, 1176 (DC, 2022)

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