

Order

Michigan Supreme Court
Lansing, Michigan

June 9, 2023

Elizabeth T. Clement,
Chief Justice

165219

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

LYNETTE HATHON and AMY JO DENKINS,
Individually and on Behalf of All Others Similarly
Situated,

Plaintiffs-Appellees,

v

SC: 165219
COA: 356850
Ct of Claims: 19-000023-MZ

STATE OF MICHIGAN,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the December 1, 2022 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on the application. MCR 7.305(H)(1). The parties shall file supplemental briefs in accordance with MCR 7.312(E), addressing: (1) whether 2020 PA 256 controls the plaintiffs' claims and deprives the Court of Claims of jurisdiction to certify a class action under a takings theory; and, if not, (2) whether the Court of Claims abused its discretion by certifying a class in this case. See MCR 3.501(A)(1).

We direct the Clerk to schedule the oral argument in this case for the same future session of the Court when it will hear oral argument in *Schafer v Kent Co* (Docket No. 164975).

The Michigan Association of County Treasurers, Michigan Association of Counties, Michigan Townships Association, Michigan Municipal League, Institute for Justice, AARP and AARP Foundation, Buckeye Institute for Public Policy Solutions, and Center for Constitutional Jurisprudence are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae.

ZAHRA, J., (*concurring*).

I concur in the order directing the Clerk to schedule oral argument on the application. In presenting additional briefing, the parties may wish to address: (1) whether the time to make a claim for remaining proceeds under MCL 211.78t is subject to the limitations periods set forth in MCL 211.78l, MCL 600.5813, or MCL 600.6452(1); (2) whether the applicable limitations period is subject to equitable tolling until this Court decides whether *Rafaeli, LLC v Oakland Co*, 505 Mich 429 (2020), applies retroactively; and (3) whether the 5% sales commission under MCL 211.78t(9) is constitutional.



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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 9, 2023

Handwritten signature of Larry S. Royster in black ink.

Clerk