

JUSTICE POLICY INITIATIVE
Respectfully submits the following position on:

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SB 0774

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The Justice Policy Initiative is comprised of members appointed by the President of the State Bar of Michigan.

The position expressed is that of the Justice Policy Initiative only and is not an official position of the State Bar of Michigan, nor does it necessarily reflect the views of all members of the State Bar of Michigan.

The State Bar position on this matter is to oppose SB 0774.

The total membership of the Justice Policy Initiative is 15.

The position was adopted after discussion and vote at a scheduled meeting. The number of members in the decision-making body is 15. The number who voted in favor to this position was 11. The number who voted opposed to this position was 1.

Report on Public Policy Position

Name of Committee:

Justice Policy Initiative

Contact Person:

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Bill Number:

[SB 0774](#) (Bieda) Civil procedure; small claims; representation by attorney in small claims court; allow. Amends secs. 8408 & 8412 of [1961 PA 236](#) (MCL [600.8408](#) & [600.8412](#)).

Date position was adopted:

February 15, 2012

Process used to take the ideological position:

Position adopted after discussion and vote at a scheduled meeting.

Number of members in the decision-making body:

15

Number who voted in favor and opposed to the position:

11 Voted for position

1 Voted against position

0 Abstained from vote

3 Did not vote

Position:

Oppose as introduced

Explanation of the position, including any recommended amendments:

Michigan's small claims process relieves participants from many of the formalities of traditional adversarial litigation. However, it also deprives them of the right of appeal and other protections available in the formal environment. When both parties have a relatively similar level of exposure to and experience with the court system, neither party is significantly advantaged in small claims. However, when either attorneys or frequent and sophisticated business entities oppose unsophisticated parties, the lack of formal protections and appellate rights renders significant disadvantage to the infrequent court user. The dollar limits for small claims are rising and high volume users, such as financial and government institutions, are very interested in utilizing the expedited process.

However, system economy must be balanced with due process protections, and without a right of appeal, this amendment denies the unsophisticated meaningful access to the justice system.

This bill would allow sole proprietorships, partnerships, corporations, counties, cities, villages, townships, and both local and intermediate school districts to be represented by non-lawyer employees and officers in the small claims division of the District court. It also allows lawyers to use its processes.

The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report.

<http://legislature.mi.gov/doc.aspx?2011-SB-0774>

FOR LEGISLATIVE ISSUES ONLY:

This position falls within the following Keller-permissible category:

- The regulation and discipline of attorneys
- ✓ The improvement of the functioning of the courts
- The availability of legal services to society
- The regulation of attorney trust accounts
- The regulation of the legal profession, including the education, the ethics, the competency, and the integrity of the profession.

Keller-permissible explanation:

This bill would allow attorney representation within the small claims courts, thus affecting the functioning of the court system.