

Report on Public Policy Position

Name of committee:

Civil Procedure and Courts Committee

Contact person:

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Proposed Court Rule or Administrative Order Number:

[2006-11 - Proposed Amendment of Rules 2.614, 7.101, 7.209, and 7.302 of the Michigan Court Rules](#)

This proposal would impose an automatic stay in a case in which a party files a claim of appeal of a denial by the trial court of the party's claim of governmental immunity. Under this proposal, no order would be necessary for the stay to operate.

Date position was adopted:

February 16, 2008

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:

20

Number who voted in favor and opposed to the position:

15 Voted for position

5 Did not vote

Position:

Oppose

Explanation of the position, including any recommended amendments:

In general, the Committee does not favor making a particular category of orders subject to stay provisions not applicable to other types. In addition, the Committee was concerned with attempting to make the stay "automatic" rather than continuing to require an order. There will be some trial court rulings as to which there will be uncertainty about whether they constitute denial of a claim of governmental immunity. That will lead to uncertainty about whether there is in fact a stay in effect when an appeal is taken. By continuing to require an order, the parties and trial court will know with certainty whether the case is stayed.

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

<http://courts.michigan.gov/supremecourt/Resources/Administrative/2006-11-01-23-08.pdf>