

CIVIL PROCEDURE & COURTS COMMITTEE

Respectfully submits the following position on:

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SB 0774

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The Civil Procedure & Courts Committee is comprised of members appointed by the President of the State Bar of Michigan.

The position expressed is that of the Civil Procedure & Courts Committee 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 Civil Procedure & Courts Committee is 20.

The position was adopted after discussion and vote at a scheduled meeting. The number of members in the decision-making body is 20. The number who voted in favor to this position was 15. The number who voted opposed to this position was 0.

Report on Public Policy Position**Name of committee:**

Civil Procedure & Courts Committee

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:

November 5, 2011

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

0 Voted against position

0 Abstained from vote

5 Did not vote

Position:

Oppose

Explanation of the position, including any recommended amendments:

The Committee opposes the proposed bill because permitting lawyers to participate in small claims court is inconsistent with the core of that proceeding. If the Legislature believes that small claims court should simply no longer exist, then it could simply eliminate it and submit all matters to normal district court jurisdiction. Otherwise, eliminating this key distinguishing feature between small claims and normal district court proceedings would decrease access to justice for parties who feel compelled to have an attorney should the other party retain one.

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:

SB 0774 concerns the functioning of the small claims court system, with the bill's allowance of attorneys in small claims court proceedings. Further, this allowance may hinder access to justice, if individuals are unable to afford an attorney for a small claims case and decide to forgo the filing of the case.