

Court of Appeals, State of Michigan

ORDER

David Krieger v Department of Environment Great Lakes and Energy; Thomas Holley v Department of Environment Great Lakes and Energy; Christopher Forbes v Dept of Environment Great Lakes and Energy; Pamela Fagan v Department of Environment Great Lakes and Energy; Carl Swarthout v Department of Environment Great Lakes and Energy; Robert Woods v Department of Environment Great Lakes and Energy; Joe Bruneau v Department of Environment Great Lakes and Energy; Thomas Borchard v Dept of Environment Great Lakes and Energy; Patrick T Wortley v Dept of Environment Great Lakes and Energy; Daryl Zelenak v Department of Environment Great Lakes and Energy; Pleasant Beach Mobile Home Resort LLC v DEGLE; Paul Coder v Department of Environment Great Lakes and Energy; Tina Reinig v Department of Environment Great Lakes and Energy; Donald Turskey v Department of Environment Great Lakes and Energy; Bob Beauchamp v Department of Environment Great Lakes and Energy; Affiliated FM Insurance company v Department of Natural Resources; Brian Bailey v Department of Environment Great Lakes and Energy; Edward Berkobien v Dept of Environment Great Lakes and Energy; Andrea Jamrog v Department of Environment Great Lakes and Energy; Michael Adams v Department of Environment Great Lakes and Energy; Allstate Insurance Company v Department of Natural Resources; Joel Halliday v Department of Environment Great Lakes and Energy; Frankenmuth Mutual Insurance Company v Dept of Natural Resources; Steven Oard v Department of Environment Great Lakes and Energy; Donna Arnold v Department of Environment Great Lakes and Energy

Michael F. Gadola
Presiding Judge

Brock A. Swartzle

Michelle M. Rick
Judges

Docket Nos. 358076; 358096; 358097; 358098; 358099; 358100; 358101; 358104; 358105; 358106; 358108; 358109; 358110; 358117; 358118; 358120; 358129; 358131; 358132; 358138; 358139; 358140; 358141; 358143; 358144

LC Nos. 20-000094-MM; 20-000102-MM; 20-000103-MM; 20-000111-MM; 20-000112-MZ; 20-000116-MM; 20-000118-MM; 20-000121-MM; 20-000140-MM; 20-000151-MM; 20-000156-MM; 20-000230-MM; 20-000232-MZ; 20-000233-MM; 20-000235-MM; 20-000236-MM; 20-000237-MM; 20-000239-MM; 20-000240-MZ; 20-000241-MM; 20-000245-MM; 20-000257-MM; 20-000246-MM; 20-000260-MM; 20-000262-MM

The Court orders that the motion for immediate consideration is GRANTED.

The omnibus motion to dismiss the claim of appeal is also GRANTED as to all of these consolidated appeals. The May 21, 2021 order appealed from does not constitute an order denying governmental immunity under MCR 7.202(6)(a)(v) and, thus, is not appealable of right under MCR 7.203(A). As the trial court recognized, the gravamen of defendants' motion for summary disposition with regard to plaintiffs' inverse condemnation claims was not a claim of immunity from such constitutional claims but rather an assertion that plaintiffs did not adequately plead the inverse condemnation claims. Accordingly, in relevant part, the trial court's order constitutes an order denying a motion for summary disposition under MCR 2.116(C)(8) premised on failure to state a claim, not an order denying governmental immunity under MCR 2.116(C)(7). See *Blair v Checker Cab Co*, 219 Mich App 667, 670-671; 558 NW2d 439 (1996) (trial court properly considered motion for summary disposition under appropriate subrule despite motion being framed under another subrule).



Presiding Judge



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

November 8, 2021

Date



Chief Clerk