

# **GUIDELINES FOR SECURING ATTORNEY GENERAL REPRESENTATION FOR TRIAL COURTS**

**State Court Administrative Office (September 2011)**

When a civil action is commenced against a court or a judge, an assistant attorney general from the Attorney General's Office (Attorney General), at the request of the State Court Administrative Office (SCAO), may appear for and represent the judge or the court. Representation is primarily intended to cover situations in which the court or the judge may become responsible for monetary damages.

If a court employee is named as a defendant in a lawsuit where the Attorney General is representing a judge or a court, the Attorney General may consider representation of the court employee unless there is a potential conflict in extending representation. The Attorney General will not provide representation in proceedings before either the Judicial Tenure Commission or the Attorney Grievance Commission, and will generally not represent a court or judge in superintending control, quo warranto, or mandamus actions.

Any judgment or settlement of a lawsuit against a judge or court remains the financial responsibility of the court's local funding unit, regardless of whether the Attorney General provides representation. Representation by the Attorney General does not mean that the SCAO or the Attorney General will indemnify the judge or court for any judgment or settlement resulting from the action. Liability for judgments, settlements, and out-of-pocket expenses for defending a case remain the responsibility of the court's funding unit. Out-of-pocket costs such as transcript fees, etc., will also be the responsibility of the court's funding unit. The state of Michigan is not responsible for payment of any settlement or judgment against any judge, court, or court employee.

You are not required to request representation by the Attorney General. The court or judge may choose to seek representation independently through private counsel paid for by the funding unit (or an insurance carrier), or from counsel available through the court's funding unit.

The SCAO will make a request for representation to the Attorney General as soon as the request and materials are received, and will notify the requesting judge or court of any problems with securing representation. Once the Attorney General has accepted the case, the assistant attorney general assigned will contact the requesting judge or court directly for detailed information regarding defense of the case, and will keep the SCAO advised of progress as necessary.

## **1. REQUIREMENTS**

If Attorney General representation is requested, the following steps must be taken:

- A. The judge or employee seeking representation must immediately, as a first step, seek to retain private counsel paid for by the court's funding unit (or an insurance carrier), or from counsel available through the court's funding unit. If the judge or

employee has applicable insurance coverage, the case will not be referred to the Attorney General for representation.

- B. The chief judge of the court involved in the legal action, or his or her designee, must forward a written request for representation to the state court administrator. The request must be made as soon as possible after service of a complaint or initiation of an action. The request must include a copy of all pleadings served, as well as copies of other relevant material, and must indicate the manner and date of service. The request must include the name and contact information for the administrator of the court's local funding unit. The request and attachments must be directed to:

State Court Administrator  
State Court Administrative Office  
Michigan Hall of Justice, P.O. Box 30048  
Lansing, MI 48909  
Telephone: (517) 373-0128 Fax: (517) 373-9831

- C. A copy of the request for representation must also be forwarded to the appropriate regional administrator.
- D. The chief judge must immediately notify the court's funding unit in writing that the request for representation has been submitted to the SCAO, and must also provide a copy of that written communication to the SCAO. The chief judge must also notify the local funding unit that responsibility for any judgment, costs, or settlement remains with the local funding unit, whether or not the case is sent to the Attorney General for representation.

## 2. LIMITATIONS:

The state court administrator will generally not make a request for Attorney General representation in the following situations:

- A. Cases involving a writ of superintending control, quo warranto, or a writ of mandamus against the judge or court, or similar action. (In many such cases, the writ is derivative of an action to which a judge is assigned and may still be pending; it is often more appropriate for the opposing party to respond.)
- B. Where the court, judge, or their counsel files, serves, or sends any responsive pleading or document prior to the determination of whether the Attorney General will accept representation.
- C. Where the Attorney General is requested to enter into co-counsel arrangements with other attorneys retained on behalf of judges or courts. If alternative counsel are obtained for other defendants, the Attorney General will, of course, communicate with other counsel as appropriate for defense of the case.

- D. Where a court, judge, or employee voluntarily seeks to bring a suit or action as a plaintiff or claimant.
- E. Where a potential conflict exists between the two trial court defendants seeking Attorney General representation.



Type of mail:  Registered  Certified  First Class

Is the complaint attached to this form?  YES  NO

Is the summons attached to this form?  YES  NO

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### LIABILITY INSURANCE INFORMATION:

If the defendant is a judge, is there an applicable judicial liability insurance policy?  YES  NO

Is there liability insurance coverage available to the court or the funding unit?  YES  NO

If yes to either of the above two questions, please provide:

Name of insurance company:

Agent's name:

Address:

Phone number:

Policy number:

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### FUNDING UNIT INFORMATION:

Is the funding unit representing any codefendants?  YES  NO

If yes, provide counsel information:

Name:

Address:

Phone Number:

Has the funding unit been notified of this lawsuit?  YES  NO

What is the date the funding unit was notified of this lawsuit:

Have you notified the funding unit of their potential liability?  YES  NO

Please provide a contact for the funding unit:

Name:

Address:

Phone Number:

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### AUTHORIZED SIGNATURE:

Request for assistance must be made through the chief judge:

Name of chief judge:

Court:

Address:

Phone Number:

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Signature of Chief Judge

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Date