

STATE OF MICHIGAN  
IN THE 46<sup>th</sup> CIRCUIT COURT  
OTSEGO COUNTY

MOORE MURPHY HOSPITALITY, LLC  
D/B/A IRON PIG SMOKEHOUSE,  
Petitioner-Appellant,

File No.:21-18522-AE  
Hon. Colin G. Hunter

vs.

MICHIGAN DEPARTMENT OF HEALTH  
AND HUMAN SERVICES,  
Respondent-Appellee.

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**ORDER REGARDING RESPONDENT'S MOTION TO CLARIFY AND/OR STAY**

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After the Court's written Opinion and Order in this case was issued, Respondent filed the instant motion seeking reconsideration and/or clarification of the Court's Order and/or a stay of the Court's legal determinations until an appeal to the Michigan Court of Appeals could ensue. Though Respondent asked for immediate relief, the Court determined instead to allow and consider oral argument and briefing by each party before issuing any ruling on the merits. During oral argument, Respondent asserted that MCR 7.114(C) has granted an automatic stay of the Court's Order since Respondent filed an application for leave to appeal to the Michigan Court of Appeals the evening prior to oral argument. Respondent therefore maintained that these instant requests—and therefore any

determination by the Court related to the requests—have been rendered moot due to the automatic stay under MCR 7.114(C). This Order now follows.

### Legal Analysis

MCR 7.114(C) provides the following, in full:

“Effect of Judgement. Unless otherwise ordered by the circuit court or the Court of Appeals, a judgment is effective after expiration of the period for filing a timely application for leave to appeal or, if such an application is filed, after the Court of Appeals decides the case. Enforcement is to be obtained in the trial court or agency after the record is returned as provided in MCR 7.109(H).”

A plain reading of that rule reveals that there is no automatic stay regarding the Court’s determinations, contrary to Respondent’s claim. Further, the appellate rules pertaining to an automatic stay in the Michigan Court of Appeals, MCR 7.200 et. seq., state at MCR 7.209(A)(1) in relevant part that:

“Except for an automatic stay pursuant to MCR 2.614 or MCL 600.867, or except as otherwise provided under this rule, an appeal does not stay the effect or enforceability of a judgment or order of a trial court unless the trial court or the Court of Appeals otherwise orders.”

As a result, in reading those sections together, it is clear that MCR 7.114(C) does not provide any automatic stay of the Court’s Order.

However, the question of whether an automatic stay exists is not the end of the analysis. This is true because even without an automatic stay, the question remains: when do the legal determinations within the Court’s Opinion and Order

take effect? The Court is cognizant that although it was requested to determine two legal issues as stipulated by the attorneys and the Court did in fact rule upon those two issues, the Court was vested with jurisdiction over the legal issues as an appeal from an agency determination. As such, under MCR 7.114(B), the Court was required to decide the appeal by oral or written opinion and issue an order, and the Court's Order is its judgment. The Court's January 13, 2022 Opinion and Order is therefore its judgment; as noted above, under the plain language of the Court rule, the Court's judgment is effective after the Court of Appeals decides the case since Respondent filed a timely application for leave to appeal.

For those reasons, and although Respondent is incorrect that MCR 7.114(C) operates to grant any automatic stay of the Court's Order, under the circumstances of this case the legal determinations made by the Court nonetheless do not take effect until the Court of Appeals decides the case. As a result, Respondent's post-judgment motion appears to have been moot when it was filed and it remains moot now; no additional decision by this Court is necessary.

Accordingly, there is no need for clarification, there is no need for reconsideration, and there is no need for any stay. Respondent's motion requesting any of those items of relief has been rendered moot by the filing of its

own application for leave to appeal. The Court's prior Opinion and Order remains its judgment.

**IT IS SO ORDERED.**

Dated: 2-11-22

  
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Hon. Colin G. Hunter  
46<sup>th</sup> Circuit Court Judge  
Otsego County

PROOF OF SERVICE

I certify that copies of this Opinion and Order were mailed to the parties and/or their attorneys by first class mail this date.

Date mailed: 2/11/22

  
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Clerk