

STATE OF MICHIGAN
IN THE 46th JUDICIAL CIRCUIT COURT FOR OTSEGO COUNTY

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

Case No.: 2021-18522-AE

HON. COLIN G. HUNTER

v

MICHIGAN DEPARTMENT OF
HEALTH AND HUMAN SERVICES,

Respondent-Appellee.

/

**DEPARTMENT OF HEALTH AND HUMAN SERVICES' MOTION FOR
CLARIFICATION OR, IN THE ALTERNATIVE, TO STAY PENDING
APPEAL**

Darrin Fowler (P53464)
Andrea Moua (P83126)
Assistant Attorneys General
Attorneys for MDHHS
Respondent-Appellee
Corporate Oversight Division
525 W. Ottawa St., P.O. Box 30736
Lansing, MI 48909
(517) 335-7632
FowlerD1@michigan.gov
MouaA@michigan.gov

Dated: January 20, 2022

The Michigan Department of Health and Human Services (Department) brings this motion through its counsel pursuant to MCR 2.119 and MCR 2.614(A). This motion is being brought to stay this Court's opinion and order in this matter that was issued on January 13, 2022. This motion is brought for the following reasons:

1. Under MCR 7.114(C), this Court's opinion and order will have operative effect in twenty-one days from its issuance: February 3, 2022.
2. Under settled law, this Court's opinion on Iron Pig's administrative appeal has the legally operative effect of providing relief to Iron Pig from the Department's \$5,000 citation, but its legal effect does not extend beyond that; it has no precedential value and does not bind any other court, and the Department's orders and authority under MCL 333.2253 otherwise remain legally valid and intact.
3. Media reporting about this Court's opinion already has noted confusion about the legal effect of this Court's opinion. Such confusion is being fueled by misstatements Iron Pig Smokehouse is making to reporters and in social media about the effect of this opinion.
4. Consistent with MCR 7.114(C), as well as the authority mentioned above, the Department is presently issuing an order under MCL 333.2253 requiring Michigan nursing homes to offer their residents the opportunity to get the most up-to-date immunization for COVID-19. Likewise, the Department has ongoing orders issued under the epidemic-response statute in place to help preserve Michigan's

healthcare system and protect the lives of some of the most vulnerable Michiganders, which presently remain in effect.

5. An order from this Court clarifying the effect of its opinion and order as limited to the Department's citation of Iron Pig will mitigate the undue confusion and harm that would flow from already-surfacing misunderstandings of the legal effect of this Court's opinion and that, if left unchecked, could result in delays or resistance to the implementation of important public health strategies designed to preserve the healthcare system and protect Michiganders.

6. Alternatively, if this Court disagrees that the legal effect of its opinion is so limited and declines to clarify accordingly, a stay of any intended precedential effect of the opinion—that is, of any effect intended by this Court beyond Iron Pig's citation—pending appeal would likewise critically mitigate such confusion and harm. And such a stay cannot work any harm to Iron Pig or the status quo, because there would be no effort to collect the \$5000 from Iron Pig while the appeal is pending.

7. The Department intends to apply for leave to appeal this Court's decision.

Accordingly, the Department respectfully asks that this Court issue an order clarifying the effect of its opinion and order issued in this matter or, in the alternative, an order staying any precedential effect of the opinion and order pending appeal.

Respectfully submitted,



Darrin Fowler (P53464)
Andrea Moua (P83126)
Assistant Attorneys General
Attorneys for MDHHS
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