# Court of Appeals, State of Michigan

## ORDER

Josette Tucker v Capital Area Transportation Authority

Docket No. 288367

LC No. 07-001362-NI

William C. Whitbeck
Presiding Judge

Patrick M. Meter

Stephen L. Borrello
Judges

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The Court orders that the motion to dismiss is DENIED. Contrary to the premise of plaintiff's argument, the adoption of MCR 7.202(6)(a)(v) by the Michigan Supreme Court to provide an appeal of right from an order denying a motion for summary disposition based on a claim of governmental immunity does not conflict with the statutory definition of the jurisdiction of this Court as to an appeal of right. Assuming only for purposes of discussion that plaintiff is correct in contending that, despite being defined as a "final judgment" or "final order" by MCR 7.202(6)(a)(v), such an order denying summary disposition based on governmental immunity is not a "final judgment" within the meaning of MCL 600.308, then MCL 600.309 would allow an appeal of right from such an order because that statutory provision allows an appeal of right in this Court from judgments or orders other than "final judgments or decisions" where the Michigan Supreme Court has promulgated rules allowing for such an appeal of right.

A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

SEP 22 2009
Date

Sandra Schultz Mengel
Chief Clerk