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November 5, 2008

**Special Alert: Michigan Supreme Court  
Loses Its Conservative Majority**

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# PRACTICE POINTERS

November 5, 2008

**Summary: The Michigan Supreme Court loses its conservative majority.**

For ten years, the Michigan Supreme Court has been dominated by a conservative majority. On November 4, 2008, Michigan elected a plaintiff-oriented judge, Judge Diane Hathaway, to unseat incumbent Chief Justice Cliff Taylor, one of the four conservative justices in that majority. The Michigan Supreme Court will now be evenly divided between three conservative justices and three plaintiff-oriented justices. Justice Elizabeth Weaver could represent the seventh and deciding vote on many issues.

Justice Elizabeth Weaver voted fairly conservatively in the early part of the decade. However, she has voted in a plaintiff-oriented manner with increasing regularity in the past several

years. With four conservative justices, this shift has not had an adverse impact. With only three conservative justices, her vote will now be very important.

The only certainty is that the Michigan Supreme Court will be much more difficult to predict on any given issue. Because of this lack of certainty, it is inevitable that some lower court judges will be emboldened to stretch the limits of defense-oriented aspects of the law. Michigan must be prepared to expect an increase in plaintiff-oriented rulings at all levels. We will continue to report as trends develop.

**Anthony F. Caffrey III**

*Attorney Caffrey specializes in appellate law, insurance coverage, and dispositive motion practice. He has participated in more than 50 appeals at the state and federal level. For input on how the newly constituted court may impact a particular pending case or issue, feel free to contact him at (616) 285-3800 or [acaffrey@cardellilaw.com](mailto:acaffrey@cardellilaw.com).*