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Senate Bill 408 (as enacted)
Sponsor: Senator Roger Victory
Senate Committee: Judiciary and Public Safety
House Committee: Judiciary (discharged)

PUBLIC ACT 83 of 2021

Date Completed: 3-29-22

CONTENT

The bill added Section 309a to the Revised Judicature Act (RJA) to do the following:

- **Allow a party to seek relief from a circuit court judgment entered in a civil action based on a jury verdict on certain grounds, including newly discovered evidence, or fraud or misconduct of an adverse party.**
- **Allow an opposing party to file an appeal of right to the Michigan Court of Appeals if a circuit court order grants relief.**
- **Require the Court of Appeals to take appropriate steps towards ensuring a timely processing of an appeal of right.**
- **Specify that Section 309a does not apply to review of verdicts in actions alleging personal injury or medical malpractice, and that it applies only to an action, case, or proceeding commenced after the bill's effective date.**

The bill took effect on September 10, 2021.

Appeal of Right

Under the bill, Section 309a applies only if a party seeks relief from a circuit court judgment entered in a civil action based on a jury verdict on any of the following grounds:

- Mistake, inadvertence, surprise, or excusable neglect.
- Newly discovered evidence.
- Fraud, misrepresentation, or other misconduct of an adverse party.
- That the judgment is void.
- Another reason that justifies relief from the operation of the judgment.

(Generally, circuit courts handle all civil cases with claims of more than \$25,000 and all felony criminal cases.)

If a circuit court order grants relief to a party as described above, an opposing party may file an appeal of right from that order to the Michigan Court of Appeals. Action in the circuit court must be stayed while the matter is on appeal. In an appeal of right to the Court of Appeals, the Court must take appropriate steps toward ensuring, consistent with the appellate court rules, a timely processing of the appeal.

The bill does not apply to an action to which Section 6098 of the RJA applies. (Section 6098 requires a judge presiding over an action alleging medical malpractice to review each verdict to determine if the limitation on noneconomic damages applies. If the limitation applies, the

court must set aside any amount of noneconomic damages in excess of the amount allowed. Section 6098 also requires a judge presiding over a personal injury action to review each verdict returned by a jury and do one of the following: a) concur with the award; b) order a new trial within 21 days of the judgment, upon motion by any party; c) order a new trial within 21 days on its own initiative; or order a new trial within 14 days if it finds that the only error in the trial is the inadequacy or effectiveness of the verdict.)

Section 309a applies only to an action, case, or proceeding commenced after the bill's effective date.

Legislative Findings

The bill states that the Legislature finds and declares all of the following:

- The right to trial by jury, as preserved by the Michigan Constitution, is sacrosanct and the decisions of juries should not be discarded lightly.
- It is the public policy of the State that litigants be afforded the highest possible degree of certainty that jury verdicts will be respected and enforced.

MCL 600.309a

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill may have a negative fiscal impact on the State and local circuit courts.

The bill adds an additional appellate procedure to circuit court civil litigation in which a jury trial renders a verdict. According to the 2019 Court Caseload Report issued by the State Court Administrative Office, there were 215 civil jury verdicts in circuit courts statewide for that calendar year (39 of these were medical malpractice jury verdicts, which are exempted in the bill's language). As such, the bill may allow for roughly 200 additional post-judgment requests for relief from jury verdicts annually. It is unknown what type of process will be used to grant or deny a request for relief from a civil judgment in circuit court but, assuming it would be through post-judgment motion, this may add additional court costs to circuit courts statewide.

Also, for circuit court civil matters, the Michigan Court Rules (MCR) allow for motions for new trials and provide an existing framework and set of procedures to accommodate those motions. For civil trials, MCR 2.611 permits any party to move for a new trial, or to amend a judgment, within 21 days after the entry of a judgment under a variety of circumstances, including new evidence, jury misconduct, error of law or fact, and other reasons. A sitting judge also may order a new trial on his or her own initiative if he or she feels it is warranted.

Fiscal Analyst: Michael Siracuse

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.