

**STATE OF MICHIGAN  
IN THE COURT OF APPEALS**

MICHIGAN OPEN CARRY, INC,  
Plaintiff-Petitioner/Appellant,

Court of Appeals Case No.: 344936  
Court of Claims Case No.: 18-000058-MZ

v.

MICHIGAN DEPARTMENT OF STATE  
POLICE also commonly known as the  
MICHIGAN STATE POLICE,  
Defendant/Appellee

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OUTSIDE LEGAL COUNSEL PLC  
PHILIP L. ELLISON (P74117)  
Attorney for Appellant  
PO Box 107  
Hemlock, MI 48626  
(989) 642-0055  
(888) 398-7003 - fax  
pellison@olcplc.com

ADAM R. DE BEAR (P80242)  
ASSISTANT ATTY GENERAL  
MICHIGAN DEPT OF ATTY GEN  
Attorney for Appellee  
PO Box 30754  
Lansing, MI 48909  
(517) 373-1162  
deBearA@michigan.gov

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**MOTION FOR ENTRY OF EXPEDITED SCHEDULING  
ORDER PURSUANT TO MCL 15.240(5) AND MCR 7.213(C)(7)**

NOW COMES Appellant MICHIGAN OPEN CARRY, INC, through counsel,  
and requests this Court to enter an expedited scheduling order pursuant to MCL  
15.240(5) and MCR 7.213(C)(7) as this Court is directed to assign this *Freedom of  
Information Act* appeal “for argument at the earliest practicable date and expedited  
in every way.” MCL 15.240(5).

## MEMORANDUM OF LAW

FOIA requires “an appeal from an action commenced under this section [of FOIA] shall be assigned... for argument at the earliest practicable date and expedited in every way.” MCL 15.240(5). This Court has held that the Legislature has “specifically provided that FOIA cases should be dealt with expeditiously by the courts.” *Cashel v Smith*, 117 Mich App 405, 410; 324 NW2d 336 (1982).

One such reasonable and practicable way to fulfill this requirement is to request an expedited scheduling order from this Court, which this Court has the authority to issue. See *Banta v Serban*, 370 Mich 367, 368; 121 NW2d 854 (1963)(courts have inherent power to control the movement of cases on its docket); see also MCR 7.213(C)(7). One of the surest ways to expeditiously reach oral argument (and then a decision) is to expedite the typical civil appellate schedule. In one of the few court opinions to address this statute, this Court noted that “the Legislature was concerned that the flow of information from public bodies to persons should not be long impeded by court process.” *Cashel, supra*, at 410. The Legislature, via MCL 15.240(5), is directing this Court to treat FOIA cases, like the instant case, as an extraordinary priority.

***Treat This Appeal As A Priority Case Under the Court Rules***

In effectuating the requirements of MCL 15.240(5), this Court is requested to direct the Clerk to treat and schedule this matter as this Court would for a “priority” appeal. This Court can grant priority to “cases that the court orders expedited.” MCR 7.213(C)(7). This Court has previously done so for FOIA cases in fulfillment of MCL 15.240(5). See *Ahmad v Univ of Mich*, unpublished order of the Court of Appeals, issued Mar 28, 2018 (Docket No. 341299) (available at <http://bit.ly/2OYL5ox>). Any delays by the normal institutional appellate processes will prejudice the parties, especially in light of the statutory entitlement for assignment for argument at the earliest practicable date and be expedited in every way.

**RELIEF REQUESTED**

WHEREFORE, Appellant MICHIGAN OPEN CARRY, INC, through counsel, requests this Court to issue an expedited scheduling order and direct the Clerk to schedule oral argument on this matter as a priority for the earliest available session of this Court pursuant to MCL 15.240(5) and MCR 7.213(C)(7).

Date: August 10, 2018

RESPECTFULLY SUBMITTED:

*Philip L Ellison*

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OUTSIDE LEGAL COUNSEL PLC  
BY PHILIP L. ELLISON (P74117)

Attorney for Appellant

PO Box 107 · Hemlock, MI 48626

(989) 642-0055

(888) 398-7003 - fax

pellison@olcplc.com