

By Senator Gaetz

4-06610-08

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Senate Resolution

A resolution encouraging the Florida Supreme Court to amend the Rules of Procedure to authorize a party to appeal an order denying a motion for summary judgment.

WHEREAS, a motion for summary judgment is a request by a litigant to the court to enter judgment without a trial because there are no issues of material fact, and

WHEREAS, summary judgment is a procedure that allows a litigant to resolve a claim if one party is entitled to prevail as a matter of law, and

WHEREAS, the purpose of summary judgment is to protect litigants from having to bear trial costs when triable issues do not exist, and

WHEREAS, summary judgment promotes efficiency in the allocation and use of limited judicial resources and thereby promotes public confidence in the state court system, and

WHEREAS, Section 4 of Article V of the State Constitution vests with the Florida Supreme Court the power to provide by Rules of Court for the review of interlocutory orders such as the denial of a motion for summary judgment, and

WHEREAS, under the Rules of Procedure, a defendant typically is not entitled to the immediate appeal of a denial of a motion for summary judgment, and

WHEREAS, the Florida Supreme Court has declared that the Constitution does not authorize the Legislature to provide for interlocutory review and that a statute purporting to grant interlocutory appeals is solely a declaration of policy, and

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29 WHEREAS, the inability to appeal immediately the denial of a
30 motion for summary judgment frustrates the beneficial objectives
31 of summary judgment to the detriment of the public, and

32 WHEREAS, the Senate believes summary judgment is a critical
33 tool to facilitate expeditious and economical resolution of legal
34 matters, and

35 WHEREAS, the Legislature believes a defendant should have
36 the ability to appeal immediately a denial of a motion for
37 summary judgment, NOW, THEREFORE,

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39 Be It Resolved by the Senate of the State of Florida:

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41 That the Senate encourages the Florida Supreme Court, in
42 consultation and cooperation with the Court Rules Committees of
43 The Florida Bar, trial and appellate judges, and other
44 practitioners, to adopt rules authorizing a party to appeal an
45 order of a trial court in a civil action which denies a motion
46 for summary judgment; and that the Senate encourages the Supreme
47 Court to provide in the rules for the trial court to issue a
48 written order and explanation denying a motion for summary
49 judgment, for submission of summary judgment evidence into the
50 record of the trial court in support of or opposition to the
51 motion for summary judgment, for the matter to be transmitted to
52 the appellate court solely on the basis of the summary judgment
53 motion, and for the appellant to submit a simplified brief in
54 support of the appeal which does not reargue matters discussed in
55 the trial court's order.

56 BE IT FURTHER RESOLVED that a copy of this resolution be
57 presented to the Chief Justice of the Florida Supreme Court and

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58 | to the President of The Florida Bar as a tangible token of the
59 | sentiments expressed in this resolution.