

## FISH

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## Michigan Supreme Court to hear appeal

Recently, a number of “former” riparian property owners throughout Michigan received good news when the Michigan Supreme Court agreed to hear a further appeal of the disastrous decision of last summer by the Michigan Court of Appeals in 2000 *Baum Family Trust, et al. v Babel, et al.*, 284 Mich App 544; 733 NW2d 44 (2009). This case involves platted public road rights-of-way which run along the shores of lakes in Michigan where there was no intervening land between the lake and the road right-of-way when the plat was created. Before last summer, Michigan appellate courts had universally held that the first-tier lots along such roads were riparian, with exclusive dockage, boat mooring, sunbathing, lounging, and similar rights along the waterfront adjacent to the lot and the public road right-of-way. Last June, the Michigan Court of Appeals reversed a century of well-settled law and held that such first-tier lot owners are no longer riparian, and that the local road commission owns the road right-of-way and

can even preclude the first-tier lot owners from using the lakefront for dockage, boat moorage, etc. Worse yet, if the Michigan Court of Appeals decision is not reversed by the Michigan Supreme Court, local road commissions could authorize public docks, mooring spaces, etc., along those public road rights-of-way.

It could take the Michigan Supreme Court anywhere from six to 18 months to reach a final decision in this matter. You can find out more about the 2000 *Baum Family Trust* case by visiting the Michigan Lake & Stream Associations (MLSA) web site at [www.mlswa.org](http://www.mlswa.org), as that website has extensive materials on the case. Also, the last two issues of *The Michigan Riparian* magazine include articles devoted to 2000 *Baum Family Trust v Babel*. In addition, there will be a symposium/panel discussion regarding the case at the annual MLSA conference at the Radisson Hotel in Lansing, Michigan, on Friday evening, April 30, 2010, beginning at 9:00 p.m.

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