

## ANOTHER RIPARIAN VICTORY IN THE MICHIGAN COURT OF APPEALS

The decision by the Michigan Court of Appeals in *Chauvette v Owczarek* (unpublished decision decided October 26, 2006; Case No. 262473) is another setback for backlot property owners and a victory for riparians. In *Chauvette*, a plat created a private road which ended at Mullet Lake. The plat dedicated the private road only to lot owners within the subdivision. The trial court held that backlot property owners were not riparians and could not utilize the private road end at the lake for shorestations, boat cradles, permanent boat mooring, sunbathing, lounging, or similar activities. The private road could be utilized for travel purposes only. The trial court did allow one nonexclusive dock that could be used by any property owner within the plat, but it could not be used for permanent boat mooring or anchoring. [This is a different result than for private access easements. For access easements, no dock is normally allowed, in addition to the prohibited other uses. However, the courts have apparently drawn a distinction between road ends, whether private or public, whereby one nonexclusive dock is allowed, and private access easements where no dockage is normally allowed.]

On appeal, the Michigan Court of Appeals upheld the decision of the trial court. The Court of Appeals agreed that the private road end could not be used for permanent boat mooring, shorestations, multiple docks, sunbathing, lounging, and similar activities. The courts also rejected the backlotters' arguments that they should be allowed to continue their prohibited uses due to prescriptive easement or acquiescence theories.