# 2023–2024 Term

July undecided argued cases

| File number (hyperlinked to docket) | Case name | Case Type Code | Argt type (hyperlinked to order) | Briefed Qs | Modified plain language summary | Date filed | Date argued | Dated decided |
|---|---|---|---|---|---|---|---|---|
| 162302 | **Estate of Horn v Swofford** (scheduled with 163226) | NH | LG | (1) whether *Woodard v Custer* , 476 Mich 545 (2006), was correctly decided and is consistent with the requirements of MCL 600.2169(1);<br><br>(2) if not, whether it should nonetheless be retained under principles of stare decisis, *Robinson v City of Detroit* , 462 Mich 439, 463-468 (2000);<br><br>(3) if *Woodard* should be retained, whether a defendant's practice of only a single medical specialty affects the application of *Woodard* 's "one most relevant specialty" requirement, 476 Mich at 560;<br><br>(4) if Woodard was not correctly decided and should not be retained, the test that should be applied under MCL 600.2169(1); and<br><br>(5) whether the Court of Appeals reached the right result under the proper application of the requirements of MCL 600.2169 in this case. | This medical malpractice case was brought by the personal representative of the Estate of Linda Horn (plaintiff) against Michael J. Swofford, D.O., and his practice group.<br><br>The plaintiff provided an affidavit of merit signed by a physician specializing and board certified in the field of **neuroradiology** (brain imaging).<br><br>The defendants answered the lawsuit and filed an affidavit of meritorious defense signed by Dr. Swofford. Dr. Swofford said he was board certified in **diagnostic radiology** at the time of the events giving rise to the plaintiff's claim.<br><br>The plaintiff moved for (asked) the trial court to confirm that **neuroradiology** was the one most relevant specialty or subspecialty for this case under *Woodard v Custer* , 476 Mich 545 (2006), but the trial court denied the motion.<br><br>The Court of Appeals disagreed and reversed in a published opinion, deciding that **neuroradiology** was the most relevant specialty. | 12/2/2020 | 10/4/2023 | |
| 163226 | **Selliman v Colton** (scheduled with 162302) | NH | LG | (1) whether *Woodard v Custer* , 476 Mich 545 (2006), was correctly decided and is consistent with the requirements of MCL 600.2169(1);<br><br>(2) if not, whether it should nonetheless be retained under principles of stare decisis, *Robinson v City of Detroit* , 462 Mich 439, 463-468 (2000);<br><br>(3) if the "one most relevant specialty" test as set forth in *Woodard* is not consistent with MCL 600.2169(1) and should not be retained, the test that should be applied;<br><br>(4) if *Woodard* 's interpretation of "majority of . . . professional time" is not consistent with MCL 600.2169(1) and should not be retained, the correct interpretation; and<br><br>(5) whether the Court of Appeals reached the right result under the proper application of the requirements of MCL 600.2169 in this case. | In this medical malpractice case, the defendants moved to strike (disqualify) the plaintiff's sole expert witness and for summary disposition because the expert's one relevant specialty was **facial plastic and reconstructive surgery**, and the plaintiff's expert testified in his deposition that he devoted **90%** of his practice to **otolaryngology (ear, nose, and throat [ENT] work)** and **10%** to **facial plastic and reconstructive surgery**.<br><br>The trial court denied the motions, finding it unclear whether the expert testified as the defendants claimed.<br><br>The Court of Appeals reversed in an unpublished opinion, holding that the trial court abused its discretion, because the expert testified that 10% of his practice was facial plastic and reconstructive surgery procedures and 90% was ENT procedures, and the most relevant specialty in this case was facial plastic reconstructive surgery. | 7/1/2021 | 10/4/2023 | |

| File number (hyperlinked to docket) | Case name | Case Type Code | Argt type (hyperlinked to order) | Briefed Qs | Modified plain language summary | Date filed | Date argued | Dated decided |
|---|---|---|---|---|---|---|---|---|
| 163120 | **Danhoff v Fahim** | NH | LG | (1) whether this Court's decisions in *Edry v Adelman* , 486 Mich 634 (2010), and *Elher v Misra* , 499 Mich 11 (2016), correctly describe the role of supporting literature in determining the admissibility of expert witness testimony on the standard of care in a medical malpractice case;<br><br>(2) if not, what a plaintiff must demonstrate to support an expert's standard-of-care opinion; and (3) whether the appellants' standard-of-care expert met the standards for determining the reliability of expert testimony and was thus qualified to testify as an expert witness under MRE 702 and MCL 600.2955 or whether a *Daubert* hearing was necessary before making that decision. See *Kumho Tire Corp Ltd v Carmichael* , 526 US 137 (1999); *General Electric Co v Joiner* , 522 US 136 (1997); *Daubert v Merrell Dow Pharm, Inc* , 509 US 579 (1993); *Elher* ; *Edry* . | After Lynda Danhoff's colon was perforated (damaged) during back surgery, she and her husband (plaintiffs) sued the surgeon, his medical practice, and the hospital for medical malpractice.<br><br>The defendants filed a motion for summary disposition, arguing that the plaintiffs' standard-of-care expert wasn't qualified because his testimony was based solely on his experience and background and not on published medical research or guidelines.<br><br>The trial court granted summary disposition in the defendants' favor dismissing the case, and the Court of Appeals affirmed (agreed) in an unpublished opinion. | 6/11/2021 | 1/10/2024 | |
| 163805 | **People v Warner (Damon Earl)** | FC | MOAA | (1) whether, under MCL 767.29 and MCR 6.112(H), a trial court may amend an information, over objection, to include a charge that was dismissed pursuant to an order of *nolle prosequi* , without beginning the proceedings anew, "unless the proposed amendment would unfairly surprise or prejudice the defendant," MCR 6.112(H);<br><br>(2) if so, whether the Eaton Circuit Court erred by doing so in this case and whether any error was harmless; and<br><br>(3) whether the trial court abused its discretion by denying the defendant's motion to appoint an expert in false confessions. | The defendant was charged with one count of first-degree criminal sexual conduct (CSC I) and one count of second-degree criminal sexual conduct (CSC II). Following a trial in 2017, a jury found him guilty of CSC II, but could not reach a verdict on the CSC I count. After the defendant was sentenced on the CSC II conviction, the prosecutor dismissed the CSC I charge without prejudice.<br><br>The defendant appealed his CSC II conviction, and the Court of Appeals reversed that conviction and remanded (sent) the case to the trial court for a new trial.<br><br>On remand, the trial court granted the prosecutor's motion to amend (change) the information to reinstate (bring back) the dismissed CSC I charge.<br><br>Following a retrial, a jury convicted the defendant of CSC I and found him not guilty of CSC II.<br><br>The trial court sentenced the defendant to 20 to 40 years in prison.<br><br>On appeal, the defendant argued, among other things, that: (1) the trial court exceeded its authority by granting the prosecutor's motion to amend the information to include a charge that had been dismissed under an order of nolle prosequi, and then conducting a trial on that charge; and (2) the trial court denied his right to due process and equal protection when it denied his motion for money to hire an expert in false confessions.<br><br>The Court of Appeals affirmed (upheld the trial court) in a published opinion. | 12/2/2021 | 10/5/2023 | |

| File number (hyperlinked to docket) | Case name | Case Type Code | Argt type (hyperlinked to order) | Briefed Qs | Modified plain language summary | Date filed | Date argued | Dated decided |
|---|---|---|---|---|---|---|---|---|
| 163939 | **People v Lemons (Milton Lee)** | FC | MOAA | The parties shall address whether the Court of Appeals erred in holding that:<br><br>(1) the Wayne Circuit Court did not abuse its discretion by concluding that the biomechanical engineering evidence and testimony was inadmissible, or by excluding alternate causation theories that purportedly lacked scientific or factual support;<br><br>(2) the Wayne Circuit Court correctly denied the defendant relief despite its erroneous decision to exclude the defense experts' opinions regarding the validity of SBS diagnoses, reliance on the triad as a diagnostic tool, and the possibility of choking as an alternative cause of death; or<br><br>(3) the new evidence presented by the defendant was insufficient to create a reasonable probability of a different outcome on retrial and warrant relief under *People v Cress* , 468 Mich 678, 692 (2003). | After a 2006 bench trial, the defendant was convicted of first-degree felony murder for the death of her infant daughter and was sentenced to life in prison. The defendant, who now identifies as female, was the infant's biological father, and admitted to shaking the infant. The Washtenaw County Medical Examiner examined the baby's body and testified that it showed signs of being shaken to death (shaken baby syndrome (SBS)).<br><br>The Court of Appeals affirmed the defendant's conviction, and the Supreme Court denied the defendant's application for leave to appeal.<br><br>In 2016, the defendant filed a successive motion for relief from judgment, alleging new evidence. The same doctor who first examined the baby now said he wasn't sure how the baby died. Other experts also questioned whether the baby had actually been shaken to death. The medical examiner would now find the manner of death to be indeterminate.<br><br>The trial court held a series of evidentiary hearings and issued an opinion holding that the medical examiner's change in opinion did not make a different result probable on retrial, and the other expert testimony was not admissible.<br><br>The Court of Appeals denied the defendant's application for leave to appeal, but the Supreme Court remanded the case to the Court of Appeals for consideration as on leave granted.<br><br>On remand, the Court of Appeals affirmed the trial court's denial of the defendant's motion for relief from judgment in an unpublished opinion, holding that: (1) the trial court abused its discretion by excluding all of the expert testimony when some was admissible; (2) the biomechanical engineering evidence and testimony was properly excluded; and (3) the admissible testimony would not have made a different result probable on retrial. | 1/12/2022 | 10/5/2023 | |

# 2023–2024 Term

July undecided argued cases

| File number (hyperlinked to docket) | Case name | Case Type Code | Argt type (hyperlinked to order) | Briefed Qs | Modified plain language summary | Date filed | Date argued | Dated decided |
|---|---|---|---|---|---|---|---|---|
| 163961 | **People v Duff (Matthew Scott)** | FH | MOAA | (1) whether the totality of the circumstances surrounding the officers' conduct of partially obstructing the defendant's ability to move his vehicle would have communicated to a reasonable person that the person was not free to decline the officers' requests or otherwise terminate the encounter, see *People v Lucynski* , ___ Mich ___ (Docket No. 162833, decided July 26, 2022); and<br><br>(2) whether *People v Anthony* , 327 Mich App 24, 40 (2019), correctly held that "only if officers completely block a person's parked vehicle with a police vehicle is the person seized." | While on routine patrol, two sheriff's deputies saw the defendant sitting in a parked car, with the engine running, in an empty elementary school parking lot at 10 p.m. on a Sunday night. The deputies pulled into the lot and parked their marked patrol vehicle at an angle roughly 10 feet behind the defendant's car. The defendant could not pull forward without driving off the pavement, and he could not back out in a straight line without striking the deputies' patrol car. The deputies claim that they observed signs of alcohol consumption as they approached the defendant's car. They eventually arrested the defendant, and he was charged with operating while intoxicated, third offense.<br><br>The defendant brought a pretrial motion to suppress evidence of his intoxication on Fourth Amendment grounds. The trial court denied the motion, and the Court of Appeals denied the defendant's application for leave to appeal.<br><br>But the Supreme Court, instead of granting leave to appeal, remanded the case (sent the case back) to the trial court with instructions to decide when the defendant was first "seized" for Fourth Amendment purposes.<br><br>On remand, the trial court decided that the defendant was "seized" as soon as the police parked behind him and shined a spotlight on him. The trial court ruled that the seizure was unconstitutional, and granted the defendant's motion to suppress. The trial court later granted the defendant's motion to dismiss.<br><br>The Court of Appeals reversed the trial court in a 2-1 unpublished opinion. | 1/18/2022 | 10/4/2023 | |
| 164050 | **People v Samuels (Dwight T.)** | FC | MOAA | (1) whether a trial court is required to hold an evidentiary hearing on the voluntariness of a guilty plea that is induced in part by an offer of leniency to a relative, see *People v James* , 393 Mich 807 (1975); and if so,<br><br>(2) how a trial court is to determine whether an offer of leniency to a relative "rendered the defendant's plea involuntary in fact." *Id* . | The defendant and his twin brother were charged with various crimes for assaulting a man at a Detroit restaurant. The prosecution made a joint plea offer that was conditioned on both the defendant and his brother entering pleas. The defendant was at first reluctant to accept the offer, but agreed to accept it after his brother said he wanted to accept the offer. The defendant pled guilty to assault with intent to murder and second-offense felony-firearm in exchange for the dismissal of other charges. The trial court sentenced him to 13 to 30 years in prison for assault with intent to murder and 5 years for felony-firearm.<br><br>At the sentencing hearing, the defendant moved to withdraw his plea, claiming it was involuntary given the atmosphere of coercion due in part to the joint nature of the plea offers.<br><br>The trial court denied the motion, and the Court of Appeals denied the defendant's application for leave to appeal.<br><br>After the Supreme Court remanded the case (sent it back) to the Court of Appeals for consideration as on leave granted, the Court of Appeals affirmed (agreed with the trial court) in a published opinion. | 2/9/2022 | 3/14/2024 | |

| File number (hyperlinked to docket) | Case name | Case Type Code | Argt type (hyperlinked to order) | Briefed Qs | Modified plain language summary | Date filed | Date argued | Dated decided |
|---|---|---|---|---|---|---|---|---|
| 164133 | **People v Loew (Daniel Albert)** | FC | LG | (1) whether the Court of Appeals correctly concluded that the ex parte communications in this case did not violate Canon 3(A)(4)(a)(i) of the Code of Judicial Conduct because they were merely administrative in nature;<br><br>(2) whether a trial court may properly grant a new trial in a criminal case based on an appearance of impropriety where Canon 3(A)(4) governs the conduct at issue, see *In re Haley* , 476 Mich 180, 194-195 (2006);<br><br>(3) if the *ex parte* communications here give rise to legal error for either a violation of Canon 3(A)(4)(a) or an appearance of impropriety, whether the standard for ascertaining reversible prejudice requires a showing of actual harm to the defense, or is instead determined by weighing other factors as well, see, e.g., *Liljeberg v Health Servs Acquisition Corp* , 486 US 847 (1988); and<br><br>(4) whether the defendant is entitled to a new trial under MCR 2.003 or constitutional guarantees of due process of law. | A jury convicted the defendant of multiple counts of first-degree criminal sexual conduct, second-degree criminal sexual conduct, and third-degree criminal sexual conduct.<br><br>While his appeal of right was pending, the defendant learned that, during the trial, the trial judge had started ex parte email communications with the elected county prosecuting attorney, asking about specific aspects of this case.<br><br>On the defendant's motion, a different judge granted the defendant a new trial because the ex parte communications created the appearance of impropriety.<br><br>The Court of Appeals reversed in a 2-1 published opinion, concluding in part that the emails amounted only to acceptable administrative matters. | 3/7/2022 | 10/5/2023 | |
| 164158 | **Janini v London Townhouses** | NO | MOAA | The parties shall address whether the Court of Appeals correctly held in *Francescutti v Fox Chase Condo Ass'n* , 312 Mich App 640 (2015), that a co-owner of a condominium unit, who slipped and fell on an icy, snow-covered sidewalk located in a common area of the development, was neither a licensee nor an invitee, and thus, there was no duty owed to the co-owner by the condominium association under the principles of premises liability. | The plaintiffs sued London Townhouses Condominium Association for injuries Daoud Mousa Janini suffered when he fell on an allegedly snow- and ice-covered sidewalk in the defendant's development. The plaintiffs own and reside in a condominium unit that is part of the defendant's condominium complex. The defendant is an association of the co-owners of the condominiums in the complex that manages and operates the condominium complex on behalf of the owners. The defendant is responsible for the management, maintenance, and administration of the common elements of the condominium complex, including the sidewalks and parking lot.<br><br>The defendant filed a motion for summary disposition, which the trial court granted in part and denied in part. The trial court dismissed all of the plaintiffs' claims except their premises liability claim.<br><br>The Court of Appeals, in an unpublished per curiam opinion, followed *Francescutti v Fox Chase Condo Ass'n* , 312 Mich App 640 (2015), and reversed the trial court's order denying summary disposition of the plaintiffs' premises liability claim. | 3/11/2022 | 11/8/2023 | |

| File number (hyperlinked to docket) | Case name | Case Type Code | Argt type (hyperlinked to order) | Briefed Qs | Modified plain language summary | Date filed | Date argued | Dated decided |
|---|---|---|---|---|---|---|---|---|
| 164213-5 | **Zwiker, et al v Lake Superior State University, et al** | MK | MOAA | The parties shall address whether the plaintiffs are entitled to any reimbursement for payments made to the defendants for tuition, room and board, or any associated fees or costs for the winter/spring 2020 semester. | The plaintiffs were students at the defendant universities when the COVID-19 pandemic began. They seek reimbursement for tuition, room and board, and fees. They argue that they did not receive the full benefit of the tuition they paid before the pandemic began as a result of the transition to an online learning environment, which they claim is of lesser value than in-person instruction. They also argue that they did not receive reimbursement for their unused portions of room and board during the time they were in off-campus housing and also did not receive reimbursement for unused portions of fees paid for services that were not provided. They claim breach of contract and unjust enrichment.<br><br>The Court of Claims granted the defendants' motions for summary disposition.<br><br>The Court of Appeals consolidated the cases and affirmed the Court of Claims in a 2-1 published opinion. | 3/25/2022 | 10/5/2023 | |
| 164317 | **Ravenell v Auto Club Ins Assn** | NF | MOAA | The parties shall address the extent to which the reasonableness of an insurer's mistaken belief that it was required to pay a claim is a factor in determining whether the insurer is entitled to equitable subrogation. See *Esurance Prop & Cas Ins Co v Mich Assigned Claims Plan* , 507 Mich 498 (2021); see also 83 CJS, Subrogation, § 43 ("Equitable subrogation will not be used to benefit parties who were negligent in their business transactions, or who failed to act according to ordinary and reasonable business practices and who were obviously in the best position to protect their own interests."); 73 Am Jur 2d, Subrogation, § 17 ("One charged with culpable negligence may not be entitled to equitable subrogation. . . . Ordinary negligence may be taken into consideration in determining whether the negligent party is entitled to subrogation, but ordinary negligence alone is not a complete bar to subrogation where, in spite of such negligence, the equities are still in favor of the subrogee."). | Oliver Ravenell was struck by a car driven by Thaddeus Stec. Ravenell filed a claim for personal protection insurance (PIP) benefits with NGM Insurance Company—the commercial-automobile insurer of three vehicles listed on a policy issued by NGM to Omega Appraisals, LLC, a company for which Ravenell's wife was the resident agent.<br><br>NGM paid in excess of $331,000 in PIP benefits to and on behalf of Ravenell. Eventually, however, NGM claimed that Ravenell was not covered by the policy that it issued to Omega because Ravenell and his wife were not listed in the policy as named insureds. NGM also argued that Auto Club Insurance Association (ACIA), as Stec's insurer, was responsible for paying PIP benefits to Ravenell.<br><br>NGM sued ACIA, seeking reimbursement of the PIP benefits it paid to Ravenell. NGM and ACIA both moved for summary disposition.<br><br>The trial court granted summary disposition in favor of NGM and entered a $182,112.64 judgment against ACIA. The Court of Appeals, in an unpublished opinion, reversed and remanded the case to the trial court for entry of summary disposition in favor of ACIA.<br><br>The Supreme Court vacated the Court of Appeals' judgment and remanded the case to the Court of Appeals for reconsideration in light of *Esurance Prop & Cas Ins Co v Mich Assigned Claims Plan* , 507 Mich 498 (2021).<br><br>On remand, the Court of Appeals, in an unpublished opinion, affirmed the trial court's orders granting summary disposition in favor of NGM and denying ACIA's motion for summary disposition. | 4/22/2022 | 11/8/2023 | |

| File number (hyperlinked to docket) | Case name | Case Type Code | Argt type (hyperlinked to order) | Briefed Qs | Modified plain language summary | Date filed | Date argued | Dated decided |
|---|---|---|---|---|---|---|---|---|
| 164360 | **In re Forfeiture of 2006 Saturn Ion** | CF | MOAA | The parties shall address whether a genuine issue of material fact exists regarding whether the claimant's 2006 Saturn Ion was, on June 24, 2019, "used or intended for use, to transport, or in any manner to facilitate the transportation, *for the purpose of sale or receipt* of [a controlled substance]." MCL 333.7521(1)(d) (emphasis added). | According to Sergeant Chivas Rivers of the Wayne County Sheriff's Office, he pulled the claimant over after he saw her passenger buy drugs at a Detroit house that he was surveilling. The claimant's 2006 Saturn Ion was seized and forfeiture proceedings were started.<br><br>The trial court granted the claimant's motion for summary disposition. The trial court denied the plaintiff's motion for reconsideration, motion to stay, and ex parte motion for relief from judgment, and it directed the plaintiff to release the claimant's vehicle immediately.<br><br>The Court of Appeals reversed the trial court in a 2-1 unpublished opinion. | 5/6/2022 | 12/6/2023 | |
| 164557 | **The Gym 24/7 Fitness v Michigan** (argued with 165169) | MM | MOAA | The parties shall file supplemental briefs in accordance with MCR 7.312(E), addressing whether the Court of Appeals erred in holding that the defendant was entitled to summary disposition on the putative class's alleged inverse condemnation and takings claims under the Michigan and United States constitutions, Const 1963, art 10, § 2; US Const, Am V.<br><br>In particular, the parties shall address: (1) whether the temporary impairment of business operations can be a categorical regulatory taking if there are no reasonable alternative uses of the business property during the period in which its intended and normal use is prohibited, see *Lucas v South Carolina Coastal Council* , 505 US 1003 (1992); and<br><br>(2) if not, whether the Court of Appeals properly weighed the factors from *Penn Central Transp Co v City of New York* , 438 US 104 (1978), in addressing plaintiff's claims involving a temporary prohibition of its normal business operations, see *Tahoe-Sierra Preservation Council, Inc v Tahoe Regional Planning Agency* , 535 US 302, 334 (2002) (leaving open the possibility that a temporary taking could constitute a taking under *Penn Central* ); *Lingle v Chevron USA Inc* , 544 US 528, 538-539 (2005) ("Primary among [the *Penn Central* ] factors are '[t]he economic impact of the regulation on the claimant and, particularly, the extent to which the regulation has interfered with distinct investment-backed expectations.' In addition, the 'character of the governmental action'—for instance whether it amounts to a physical invasion or instead merely affects property interests through 'some public program adjusting the benefits and burdens of economic life to promote the common good'—may be relevant in discerning whether a taking has occurred.") (citations omitted). | The plaintiff claims that it and all gyms and fitness centers are entitled to just compensation under the federal and state takings clauses, Const 1963, art 10, § 2; US Const, Am V, because of the six-month closure as part of Executive Orders addressing the COVID-19 pandemic.<br><br>The defendant moved for summary disposition under MCR 2.116(C)(7), (8), and (10), but the Court of Claims denied the motion, finding that there was a genuine issue of material fact as to whether the closure was reasonable and not arbitrary.<br><br>The Court of Appeals, in a published opinion, reversed and remanded for entry of judgment for the defendant, holding that the plaintiff did not establish a physical or regulatory taking. | 6/27/2022 | 1/10/2024 | |

| File number (hyperlinked to docket) | Case name | Case Type Code | Argt type (hyperlinked to order) | Briefed Qs | Modified plain language summary | Date filed | Date argued | Dated decided |
|---|---|---|---|---|---|---|---|---|
| 165169 | **Mt. Clemens Rec Bowl v DHHS** (argued with 164557) | MZ | MOAA | The parties shall file supplemental briefs in accordance with MCR 7.312(E), addressing: (1) whether the plaintiffs' motion to transfer the case back to Macomb Circuit Court should have been granted because there is a constitutional or statutory right to a jury trial in takings cases against the state; and<br><br>(2) whether the Court of Appeals properly weighed the factors from *Penn Central Transp Co v City of New York* , 438 US 104 (1978), in addressing the plaintiffs' claims involving a temporary prohibition of its normal business operations, see *Tahoe-Sierra Preservation Council, Inc v Tahoe Regional Planning Agency* , 535 US 302, 334 (2002) (leaving open the possibility that a temporary taking could constitute a taking under *Penn Central* ); *Lingle v Chevron USA Inc* , 544 US 528, 538-539 (2005) ("Primary among [the *Penn Central* ] factors are '[t]he economic impact of the regulation on the claimant and, particularly, the extent to which the regulation has interfered with distinct investment-backed expectations.' In addition, the 'character of the governmental action'—for instance whether it amounts to a physical invasion or instead merely affects property interests through 'some public program adjusting the benefits and burdens of economic life to promote the common good'—may be relevant in discerning whether a taking has occurred.") (citations omitted). | After the Governor, the Department of Health and Human Services (DHHS) Director, and the Chairperson of the Liquor Control Commission issued orders during the COVID-19 pandemic requiring the closure of bars, restaurants, and banquet halls, or for them to maintain limited occupancy rates, the plaintiffs sued in Macomb Circuit Court. The plaintiffs alleged a regulatory takings claim and claims of tortious interference.<br><br>After the defendants moved the case to the Court of Claims, the plaintiffs moved to transfer the case back to the Macomb Circuit Court.<br><br>The Court of Claims denied the plaintiffs' motion to transfer and granted the defendants' motion for summary disposition under MCR 2.116(C)(8).<br><br>The Court of Appeals affirmed in a published opinion, relying on its analysis of similar claims in *The Gym 24/7 Fitness, LLC v State of Michigan* , 341 Mich App 238 (2022). | 12/29/2022 | 1/10/2024 | |
| 164598 | **People v Butka (Stephen)** | FH | MOAA | (1) whether the Court of Appeals correctly defined "public welfare" under former MCL 780.621(14), 2016 PA 336; and<br><br>(2) whether the trial court abused its discretion by concluding that it was not "consistent with the public welfare" to set aside the defendant's conviction based solely on victim statements in opposition to the expungement. | In 2006, the defendant pled no contest to third-degree child abuse involving his stepdaughters and was sentenced to nine months in jail and two years of probation. After successfully completing probation, the defendant sought to set aside his conviction, but the trial court denied his applications in 2013 and 2019. The defendant filed another application to set aside his conviction in 2021 and the victims opposed the application.<br><br>MCL 780.621d gives trial courts the discretion to grant an application to set aside a conviction if warranted by "the circumstances and behavior of an applicant" and if it is "consistent with the public welfare."<br><br>The trial court denied the defendant's application in 2021, explaining that it would go against the public welfare to set aside the defendant's conviction because the victims opposed the expungement.<br><br>The Court of Appeals denied the defendant's application for leave to appeal, but the Supreme Court remanded the case to the Court of Appeals for consideration as on leave granted.<br><br>On remand, the Court of Appeals affirmed (upheld) the trial court's order in an unpublished opinion. | 7/11/2022 | 12/6/2023 | |

| File number (hyperlinked to docket) | Case name | Case Type Code | Argt type (hyperlinked to order) | Briefed Qs | Modified plain language summary | Date filed | Date argued | Dated decided |
|---|---|---|---|---|---|---|---|---|
| 164685 | **People v Lymon (Cora Ladane)** | FC | LG | The parties shall address whether requiring a defendant to register as a sex offender under the Sex Offenders Registration Act (SORA), MCL 28.721 et seq., as amended by 2020 PA 295, effective March 24, 2021 (the 2021 SORA), for a non-sexual crime, such as unlawful imprisonment of a minor, constitutes cruel or unusual punishment under Const 1963, art 1, § 16 or cruel and unusual punishment under US Const, Am VIII. | Following a jury trial, the defendant was convicted of three counts of torture, three counts of unlawful imprisonment, one count of felonious assault, and one count of felony-firearm. The trial court sentenced him to 10.5 to 20 years in prison for each of the torture convictions, 7 to 15 years for each of the unlawful imprisonment convictions, 2 to 4 years for the felonious assault conviction, and two years for the felony-firearm conviction, to be served consecutively to the other sentences.<br><br>Because two of the defendant's unlawful imprisonment convictions involved minors, the trial court required him to register as a Tier I offender under the Sex Offenders Registration Act (SORA), MCL 28.721 et seq. See MCL 28.722(q) and (r)(iii).<br><br>The defendant argued on appeal that because his convictions of unlawful imprisonment of a minor lacked a sexual component, his placement on the sex offender registry violates the Eighth Amendment to the U.S. Constitution's prohibition against cruel and unusual punishment, and Article I, § 16 of Michigan's 1963 Constitution, which also prohibits cruel or unusual punishment.<br><br>The Court of Appeals, in a published opinion, affirmed the defendant's convictions, but remanded the case to the trial court for entry of an order removing him from the sex-offender registry.<br><br>The defendant filed an application for leave to appeal in the Supreme Court, arguing that there was insufficient evidence to support his torture convictions and that the offense variables were misscored.<br><br>The prosecution filed an application for leave to appeal as cross-appellant, arguing that the requirements of the 2021 SORA do not constitute cruel and/or unusual punishment.<br><br>The Supreme Court denied the defendant's application, but granted the prosecution's cross-application to address whether requiring a defendant to register as a sex offender under the Sex Offenders Registration Act (SORA), MCL 28.721 et seq., as amended by 2020 PA 295, effective March 24, 2021 (the 2021 SORA), for a non-sexual crime, such as unlawful imprisonment of a minor, constitutes cruel or unusual punishment under Const 1963, art 1, § 16 or cruel and unusual | 8/10/2022 | 1/11/2024 | |
| 164869-77 | **Pinebrook Warren LLC v City of Warren** (joined with 164870-77) | CZ | MOAA | The parties shall file supplemental briefs in accordance with MCR 7.312(E), addressing whether the City of Warren's Medical Marihuana Review Committee was a "public body" as defined by MCL 15.262(a), subject to the Open Meetings Act, MCL 15.261 et seq. | The plaintiffs applied for but were not granted licenses for medical marijuana dispensaries in the City of Warren. They sued the City, its Medical Marihuana Review Committee, and the members of the committee, alleging due process violations and violations of the Open Meetings Act (OMA), MCL 15.261 et seq. Entities that received licenses intervened.<br><br>The issue about the OMA was whether the Review Committee was subject to the OMA as a "public body" as defined in MCL 15.262(a).<br><br>The trial court granted the plaintiffs' motion for partial summary disposition and denied the City's cross-motion for summary disposition, holding that the Review Committee was a public body and violated the OMA.<br><br>The Court of Appeals, in a 2-1 published opinion, held that the trial court erred by holding that the Review Committee was a public body subject to the OMA. The Court of Appeals reversed the trial court's grant of summary disposition to the plaintiffs, vacated the trial court's opinion and order, reversed the trial court's decision on the motions for reconsideration, and vacated the court's invalidation of the City Council's initial licensing decisions. | 10/6/2022 | 5/8/2024 | |

| File number (hyperlinked to docket) | Case name | Case Type Code | Argt type (hyperlinked to order) | Briefed Qs | Modified plain language summary | Date filed | Date argued | Dated decided |
|---|---|---|---|---|---|---|---|---|
| 164900-1 | **Bradley v Frye-Chaiken** (joined with 164901) | CH | MOAA | The parties shall file supplemental briefs in accordance with MCR 7.312(E), addressing whether the attorney hired to litigate the amount of costs and fees assessed by the trial court was properly found to be jointly and severally responsible, under MCR 1.109(E) or MCL 600.2591(1), for the costs and fees that were incurred prior to the appellant's appearance in the case, and/or that did not arise out of his representation of the defendant.<br><br>In addressing that question, the parties shall specifically address: (1) whether, under MCR 1.109(E) or MCL 600.2591(1), all attorneys who represented a client during any portion of a case in which an action or defense was frivolous must be held jointly and severally responsible for costs and fees; and<br><br>(2) if not, how a court should determine which attorneys should be held liable for costs and fees. | Barry Powers became the defendant's attorney after the plaintiffs were granted summary disposition and after the trial court determined that the defendant's defenses and counterclaims were frivolous and granted the plaintiffs' motion for MCR 1.109(E)(7) sanctions.<br><br>Powers represented the defendant at the evidentiary hearing to determine reasonable attorney fees.<br><br>The trial court issued an opinion and order granting the plaintiffs' request for attorney fees jointly and severally against the defendant and her prior and current counsel under MCL 600.2591. The trial court entered a judgment for the plaintiffs, jointly and severally against the defendant, her current attorney (Powers), and each of the attorneys who had previously represented her.<br><br>The Court of Appeals affirmed in an unpublished opinion. | 10/11/2022 | 4/16/2024 | |
| 164902-4 | **El-Jamaly v Kirco Manix** (joined with 164903 and 194904) | NO | MOAA | The parties shall file supplemental briefs in accordance with MCR 7.312(E), addressing whether the Court of Appeals erred in holding that: (1) the defendant Kirco Manix Construction, LLC cannot be held liable under the common work area doctrine; and<br><br>(2) the defendant DTE Electric Company did not owe a duty to the plaintiff. | The plaintiff was electrocuted while working at a construction site when he raised a large metal tool in the air to the point that it either touched or came very close to touching the power lines above the construction site.<br><br>The plaintiff sued Kirco Manix Construction, LLC, the general contractor, DTE Electric Company, which owned and operated the power lines above the construction site, and Oerlikon Metco (US), Inc., the company that planned to lease the building that was being constructed.<br><br>The trial court denied the defendants' motions for summary disposition.<br><br>The Court of Appeals consolidated the defendants' appeals and, in an unpublished opinion, reversed the trial court and remanded for entry of summary disposition in favor of the defendants. | 10/12/2022 | 1/10/2024 | |

| File number (hyperlinked to docket) | Case name | Case Type Code | Argt type (hyperlinked to order) | Briefed Qs | Modified plain language summary | Date filed | Date argued | Dated decided |
|---|---|---|---|---|---|---|---|---|
| 164975 | **Schafer v Kent County** (argued with 165219) | CZ | LG | | This is a dispute over surplus sale proceeds for tax-foreclosed properties in Kent County that were sold at auction in 2017 at prices that exceeded the amount of unpaid taxes, together with fees, penalties, and interest.<br><br>On July 17, 2020, the Supreme Court issued its decision in *Rafaeli, LLC v Oakland Co* , 505 Mich 429, 484-485 (2020), holding that "former property owners whose properties were foreclosed and sold to satisfy delinquent real-property taxes have a cognizable, vested property right to the surplus proceeds resulting from the tax-foreclosure sale of their properties" and that the "retention and subsequent transfer of those proceeds into the county general fund amounted to a taking of plaintiffs' properties under Article 10, § 2 of our 1963 Constitution."<br><br>After *Rafaeli* was decided, the plaintiffs filed a putative class action lawsuit against Kent County and the Kent County Treasurer. The plaintiffs sought to recover surplus proceeds, including for properties that were sold at auction **before** *Rafaeli* was decided.<br><br>The defendants moved for partial summary disposition with respect to those properties, arguing that *Rafaeli* only applied **prospectively**.<br><br>The trial court denied the motion, determining that *Rafaeli* applied **retroactively**.<br><br>The Court of Appeals affirmed in a published opinion, holding that *Rafaeli* should be given full retroactive effect.<br><br>The Supreme Court has granted Kent County's application for leave to appeal. | 11/3/2022 | 3/13/2024 | |

| File number (hyperlinked to docket) | Case name | Case Type Code | Argt type (hyperlinked to order) | Briefed Qs | Modified plain language summary | Date filed | Date argued | Dated decided |
|---|---|---|---|---|---|---|---|---|
| 165219 | **Hathon v Michigan** (argued with 164975) | MZ | MOAA | The parties shall file supplemental briefs in accordance with MCR 7.312(E), addressing: (1) whether 2020 PA 256 controls the plaintiffs' claims and deprives the Court of Claims of jurisdiction to certify a class action under a takings theory; and, if not,<br><br>(2) whether the Court of Claims abused its discretion by certifying a class in this case. See MCR 3.501(A)(1). | In January 2019, the plaintiffs filed a putative class action in the Court of Claims against defendant State of Michigan, seeking relief arising from tax foreclosures in counties where the defendant acted as the foreclosing governmental unit.<br><br>The plaintiffs argued it's an unconstitutional taking to foreclose and sell property at a tax auction sale for more than the total tax delinquency and not refund the excess/surplus equity to the property owner.<br><br>After the Court of Claims initially certified a class, the Supreme Court issued its opinion in *Rafaeli, LLC v Oakland Co* , 505 Mich 429 (2020), holding that former property owners are entitled to just compensation in the form of surplus proceeds resulting from the tax foreclosure sale of their properties.<br><br>The Legislature then enacted 2020 PA 256 to define the claimants who may make claims for surplus proceeds and to establish a procedure for submitting such claims. In light of Public Act 256, the defendant argued that the plaintiffs' claims are not compensable because the Supreme Court has yet to declare that *Rafaeli* applies retroactively, and the Court of Claims lacks jurisdiction in any event under 2020 PA 256.<br><br>The Court of Claims rejected the defendant's arguments and granted the plaintiffs' motion to certify a new class. The defendant filed an application for leave to appeal and the Court of Appeals granted leave. The Supreme Court denied the parties' bypass applications.<br><br>The Court of Appeals affirmed the Court of Claims in a published opinion. | 1/12/2023 | 3/13/2024 | |

| File number (hyperlinked to docket) | Case name | Case Type Code | Argt type (hyperlinked to order) | Briefed Qs | Modified plain language summary | Date filed | Date argued | Dated decided |
|---|---|---|---|---|---|---|---|---|
| 165166 | **MI Farm Bureau v DEGLE** | MZ | LG | The parties shall address: (1) whether the unpromulgated new permit conditions that the Department of Environment, Great Lakes, and Energy seeks to enforce with its 2020 General Permit can be challenged by way of a declaratory judgment under MCL 24.264;<br><br>(2) whether a contested case proceeding under MCL 324.3112(5) and MCL 24.271 to MCL 24.288 is "an exclusive procedure or remedy . . . provided by a statute governing the agency" under MCL 24.264; and<br><br>(3) whether it was necessary for the Court of Appeals to decide if the challenged permit conditions meet the definition of a "rule" under MCL 24.207 or of a "license" under MCL 24.205(a) of the Administrative Procedures Act, MCL 24.201 et seq., and if so, did it decide the question correctly. | The Department of Environment, Great Lakes, and Energy (EGLE) administers the issuance of general permits for pollutant discharges from point sources in Michigan regulated under the National Pollutant Discharge Elimination System, 33 USC 1311(a); 33 USC 1342(a)(1).<br><br>Among the plaintiffs are concentrated livestock or animal feeding operations (CAFOS) regulated by EGLE under this permitting process.<br><br>When EGLE issued a number of new permit conditions with its 2020 General Permit, a group of CAFOs petitioned for a contested case proceeding under Mich Admin Code R 323.2192(c), the Administrative Procedures Act of 1969, MCL 24.201 et seq., and MCL 324.3113(3).<br><br>Before a contested case proceeding could be held, the plaintiffs (an overlapping group) sued in the Court of Claims for declaratory and injunctive relief challenging the same permit conditions.<br><br>Finding that the plaintiffs had failed to exhaust their administrative remedies under the contested case proceeding before challenging the conditions in court, the Court of Claims granted EGLE summary disposition for lack of subject-matter jurisdiction under MCR 2.116(C)(4).<br><br>The Court of Appeals, in a published opinion, held that the Court of Claims lacked subject-matter jurisdiction, but for a different reason. According to the Court of Appeals, the permit conditions were unpromulgated rules that could be challenged in a declaratory judgment action under MCL 24.264; but before the plaintiffs could file that action, they had to first challenge the validity of these rules by seeking an administrative declaratory ruling under MCL 24.264. | 12/29/2022 | 1/11/2024 | |
| 165185 | **P v Neilly (William Edward)** | FC | MOAA | (1) whether restitution constitutes punishment for purposes of the Ex Post Facto Clauses of the United States Constitution, US Const, art I, § 10, and the Michigan Constitution, Const 1963, art 1, § 10;<br><br>(2) whether application of the current versions of the restitution statutes rather than the statutes in effect when the defendant was convicted "disadvantage[d]" him for purposes of the Ex Post Facto Clauses, *Weaver v Graham* , 450 US 24, 29 (1981); see also *People v Lueth* , 253 Mich App 670, 693 (2002); and<br><br>(3) if there is an Ex Post Facto Clause violation, what is the appropriate remedy? | In 1993, the defendant was convicted of first-degree murder and was sentenced to life without parole for a crime committed when he was 17 years old. The 1993 sentencing court did not order restitution.<br><br>In April 2021, the defendant was resentenced, under MCL 769.25a, to a prison term of 35 to 60 years. The 2021 sentencing court also ordered restitution in the amount of $14,895.78.<br><br>The Court of Appeals affirmed the restitution order in an unpublished opinion. | 1/5/2023 | 3/14/2024 | |

| File number (hyperlinked to docket) | Case name | Case Type Code | Argt type (hyperlinked to order) | Briefed Qs | Modified plain language summary | Date filed | Date argued | Dated decided |
|---|---|---|---|---|---|---|---|---|
| 165207-8 | **Cavazos (Crystal) v American Athletix** (joined with 165208) | NO | MOAA | The parties shall file supplemental briefs in accordance with MCR 7.312(E), addressing whether a governmental agency's noncompliance with a building code provision constitutes a failure to meet its obligation to repair and maintain a public building, rendering it liable under MCL 691.1406 and *Renny v Mich Dep't of Transp* , 478 Mich 490 (2007). | A toddler at a football game fell through a gap in a set of bleachers that were designed and installed without risers to close the gap between the floorboards and seating planks. The toddler's mother sued the school district, its maintenance directors, and a company that twice inspected the bleachers but never quoted the district a price for adding riser planks.<br><br>The trial court granted summary disposition to the school district because the alleged design defect did not fit within the government building exception to governmental immunity under *Renny v Mich Dep't of Transp* , 478 Mich 490 (2007).<br><br>The trial court granted summary disposition to the company because it did not have any relationship with the toddler that created a duty of care for his safety. The trial court found a jury question as to the directors' gross negligence.<br><br>The plaintiff appealed the grant of the school district's and company's motions for summary disposition, and the maintenance directors appealed the denial of their motion for summary disposition.<br><br>The Court of Appeals, in an unpublished opinion, affirmed the grant of summary disposition to the school district and the company, and reversed the trial court's denial of summary disposition to the maintenance directors. | 1/10/2023 | 4/17/2024 | |
| 165296 | **P v Washington (Lantz Howard)** | FH | LG | (1) whether evidence directly implying the substance of a testimonial, out-of□court statement made by an unavailable witness and offered to prove its truth, i.e., "implied testimonial hearsay," is inadmissible because it violates the Sixth Amendment of the<br>United States Constitution and Article 1, § 20 of Michigan's Constitution; and, if so,<br><br>(2) whether the defendant's incriminating statements were inadmissible under the corpus delicti rule. | The defendant crossed the Blue Water Bridge from Port Huron, Michigan, into Canada without paying the toll. A Canadian Customs and Border Service Agency agent, Officer Matthew Lavers, arrested the defendant, brought him back to the American side of the bridge, and reported that he was wearing a bulletproof vest under his shirt.<br><br>Officer Lavers did not testify at the defendant's trial. Instead, a United States Customs and Border Protection supervisory officer, Paul Stockwell, testified that based on his communications with Officer Lavers, he took custody of the defendant and a bulletproof vest. Officer Stockwell transferred custody of the defendant to Port Huron Police Officer Kyle Whitten. Officer Whitten testified that he took the defendant to the St. Clair County Jail, where he overheard the defendant say that he was wearing body armor because he was afraid that people would kill him. During a recorded phone call from the jail, the defendant shared that he wore a bulletproof vest because he had been threatened and he was in fear for his life.<br><br>Following a jury trial, the defendant was convicted of being a violent felon in possession of body armor.<br><br>The Court of Appeals, in a 2-1 published opinion, held that Officer Lavers' testimonial statement was implicitly admitted in violation of the Confrontation Clause and that the error was not harmless beyond a reasonable doubt because the other evidence against the defendant were statements admitted in violation of the corpus delicti rule, which provides that a defendant's confession may be admitted only if there is direct or circumstantial evidence independent of the confession establishing the occurrence of the specific injury and some criminal agency as the source of the injury. For those reasons, the Court of Appeals vacated the defendant's conviction and remanded for a new trial. | 2/1/2023 | 3/13/2024 | |

| File number (hyperlinked to docket) | Case name | Case Type Code | Argt type (hyperlinked to order) | Briefed Qs | Modified plain language summary | Date filed | Date argued | Dated decided |
|---|---|---|---|---|---|---|---|---|
| 165325 | **Mothering Justice v Attorney General** | MM | LG | (1) whether the Legislature violated art 2, § 9 of the Michigan Constitution of 1963 when it enacted 2018 PA 337 and 2018 PA 338 into law and then amended those laws in the same legislative session by enacting 2018 PA 368 and 2018 PA 369; and<br><br>(2) if so, whether 2018 PA 337 and 2018 PA 338 remain in effect. | In 2018, two ballot initiative committees submitted statutory initiatives to the Secretary of State that would, among other things, increase the State of Michigan's minimum hourly wage and allow employees to earn paid sick leave from their employers. Within the 40-session-day window provided in Const 1963, art 2, § 9, the Legislature passed both initiatives as 2018 PA 337 and 2018 PA 338. But in the same legislative session, the Legislature passed and the Governor signed 2018 PA 368 and 2018 PA 369, which amended both proposals by delaying the minimum wage increase, restricting eligibility to paid sick time, and cutting the amount of paid sick time that could be earned.<br><br>In 2021, the plaintiffs sued alleging that the Legislature violated art 2, § 9 when it enacted 2018 PA 337 and 2018 PA 338 but then amended them in the same legislative session by enacting 2018 PA 368 and 2018 PA 369. After the Attorney General showed her agreement with the plaintiffs' position, the plaintiffs added the State of Michigan as a defendant.<br><br>The Court of Claims granted the plaintiffs' and the Attorney General's motions for summary disposition, while denying the State of Michigan's motion. The Court of Claims therefore voided 2018 PA 368 and 2018 PA 369 and held that 2018 PA 337 and 2018 PA 338 remained in effect, but it stayed its ruling until February 19, 2023.<br><br>The Court of Appeals, in a published January 26, 2023 opinion, reversed and remanded the case to the Court of Claims for entry of summary disposition in favor of the State of Michigan. | 2/10/2023 | 12/7/2023 | |
| 165377 | **Estate of Jomaa v Prime Healthcare** | NH | LG | The parties shall address whether: (1) the estate of a child may recover damages for the child's lost future earnings; and<br><br>(2) to what specificity future earnings need be shown. | In this medical malpractice suit brought under the wrongful-death act, MCL 600.2922, the plaintiffs allege that the defendants failed to properly diagnose and treat their 13-year-old son, leading to his death.<br><br>The complaint alleges that the decedent (the 13-year-old who passed away) suffered lost earnings and lost earnings capacity.<br><br>The defendants filed a motion for summary disposition with respect to the plaintiffs' request for future economic damages, but the trial court denied the motion.<br><br>The Court of Appeals affirmed in a published opinion. | 2/24/2023 | 4/16/2024 | |

| File number (hyperlinked to docket) | Case name | Case Type Code | Argt type (hyperlinked to order) | Briefed Qs | Modified plain language summary | Date filed | Date argued | Dated decided |
|---|---|---|---|---|---|---|---|---|
| 165399-400 | **Armijo (Mary) v Bronson Methodist Hospital** (scheduled with 165425) | NH | MOAA | (1) under Administrative Order 2020-3 and Administrative Order 2020-18, the pre-suit notice period described in MCL 600.2912b continued to run from March 10, 2020 to June 20, 2020; and<br><br>(2) whether the Court of Appeals correctly held that the plaintiff's complaint was not timely filed. | The plaintiff alleges that the defendants committed medical malpractice on March 6, 2018. She sent her notice of intent to sue on February 19, 2020, and filed her complaint on December 14, 2020.<br><br>The trial court denied the defendants' motion for summary disposition, concluding that the plaintiff's complaint was timely filed due to the Supreme Court's Administrative Order 2020-3, which was issued in connection with the COVID-19 pandemic.<br><br>The Court of Appeals reversed in a published opinion, holding that Administrative Order 2020-3 did not toll or otherwise stay the 182-day notice period and that the plaintiff's complaint was untimely. | 3/2/2023 | 1/11/2024 | |
| 165425 | **Carter (Karen) v DTN Mgt Co** (scheduled with 165399-400) | NO | LG | The parties shall address whether this Court possessed the authority to issue Administrative Order Nos. 2020-3 and 2020-18. | In January 2018, the plaintiff was allegedly injured when she slipped on an icy sidewalk outside her apartment.<br><br>In April 2021, she filed a premises liability lawsuit against the defendant, who owns and operates the apartment complex.<br><br>The defendant moved for summary disposition, arguing that the plaintiff's complaint was filed outside the applicable limitations period because it was filed more than three years after the injury.<br><br>The plaintiff argued that her complaint was timely because of the Supreme Court's Administrative Orders Nos. 2020-3 and 2020-18, which were issued in connection with the COVID-19 pandemic.<br><br>The trial court granted summary disposition in the defendant's favor, concluding that Administrative Order 2020-3 applies only to limitations periods that would have expired during the State of the Emergency declared by the Governor.<br><br>The Court of Appeals reversed in a published opinion, holding that the Supreme Court's administrative orders merely modified the computation of time under MCR 1.108 in determining all filing deadlines. | 3/9/2023 | 1/11/2024 | |

| File number (hyperlinked to docket) | Case name | Case Type Code | Argt type (hyperlinked to order) | Briefed Qs | Modified plain language summary | Date filed | Date argued | Dated decided |
|---|---|---|---|---|---|---|---|---|
| 165441 | **Jane Doe v Alpena Public School District** | NZ | MOAA | (1) whether the plaintiff stated a cause of action under the Elliott-Larsen Civil Rights Act, MCL 37.2101 et seq., for student-on-student sexual harassment; and<br><br>(2) if so, whether the plaintiff established a genuine issue of material fact as to that claim. | The plaintiff's daughter was allegedly sexually harassed by another student of the Alpena Public School District.<br><br>The plaintiff sued the school district and Board of Education under the Elliott-Larsen Civil Rights Act (ELCRA), MCL 37.2101 et seq., alleging they created a sexually hostile educational environment by failing to prevent or take remedial measures to prevent further harassment.<br><br>The defendants moved for summary disposition under MCR 2.116(C)(8) and MCR 2.116(C)(10), arguing that the plaintiff failed to state a claim and failed to establish a genuine issue of material fact.<br><br>The trial court granted summary disposition to the defendants on both grounds.<br><br>The Court of Appeals, in a published opinion, reversed under MCR 2.116(C)(8), holding that the ELCRA provides a cause of action against a school district for student-on-student sexual harassment and that the district exercised sufficient control over its students to make it vicariously liable for their conduct.<br><br>But the Court of Appeals affirmed the trial court's holding under MCR 2.116(C)(10) that the plaintiff failed to establish a genuine issue of material fact that the defendants failed to engage in appropriate remedial actions. | 3/14/2023 | 3/13/2024 | |

| File number (hyperlinked to docket) | Case name | Case Type Code | Argt type (hyperlinked to order) | Briefed Qs | Modified plain language summary | Date filed | Date argued | Dated decided |
|---|---|---|---|---|---|---|---|---|
| 165450 | **Stegall v Resource Tech. Corp** | CD | MOAA | (1) whether a public-policy claim for retaliation based upon a statute that has an antiretaliation provision still exists under *Suchodolski v Mich Consol Gas Co* , 412 Mich 692, 695 & n 2 (1982), after this Court's decision in *Dudewicz v Norris Schmid, Inc* , 443 Mich 68 (1993), overruled in part on other grounds by *Brown v Detroit Mayor* , 478 Mich 589, 594 n 2 (2007); and<br><br>(2) whether the Court of Appeals correctly held that the plaintiff's public-policy claim was preempted by the Occupational Safety and Health Act, see 29 USC 651 et seq., and the Michigan Occupational Safety and Health Act, MCL 408.1001 et seq., or whether the claim was not preempted because the remedy provided by the statutes is inadequate. | The plaintiff was fired from his position at FCA US, LLC, where he was working through staffing agency Resource Technology Corporation, d/b/a Brightwing. He claimed that he was fired because he complained to FCA supervisors about asbestos and threatened to and did file a complaint under the Michigan Occupational Safety and Health Act (MiOSHA), MCL 408.1001 et seq.<br><br>The plaintiff sued FCA and Brightwing alleging retaliatory termination under the Whistleblowers' Protection Act (WPA), MCL 15.361 et seq., and termination in violation of public policy.<br><br>The trial court granted the defendants' motions for summary disposition, holding that the public-policy claim was preempted by the WPA and that the WPA claim against Brightwing failed because the plaintiff did not have evidence of an adverse employment action by Brightwing and could not prove causation.<br><br>The Court of Appeals affirmed in a 2-1 unpublished opinion, holding that the plaintiff failed to support a public-policy claim regardless of whether it was preempted and failed to create an issue of fact as to causation on the WPA claim.<br><br>The Supreme Court heard oral argument on the application. The defendants argued for the first time in the Supreme Court that the plaintiff's claims were preempted by the Occupational Safety and Health Act (OSHA), see 29 USC 651 et seq., and MiOSHA, an issue the Court of Appeals did not address because it was not raised in that court.<br><br>The Supreme Court reversed the judgment of the Court of Appeals in part, holding that the Court of Appeals erred by holding that the plaintiff's public-policy claim failed. The Supreme Court remanded the case to the Court of Appeals "for further consideration of whether plaintiff has established a prima facie claim that he was discharged in violation of public policy, whether plaintiff's public-policy claim is nonetheless preempted by either state or federal law, and whether arguments that the claim has been preempted are preserved." *Stegall v Resource Technology Corp* , 509 Mich 1086, 1087 (2022).<br><br>On remand, the Court of Appeals, in a 2-1 published opinion, held that it could consider the unpreserved preemption arguments and that summary disposition in favor of the defendants was appropriate because the public-policy claim is | 3/16/2023 | 4/17/2024 | |
| 165544 | **P v Oslund (Evan Andrew)** | FH | LG | The parties shall address whether: (1) shoes can constitute dangerous weapons for purposes of MCL 764.1f(2)(b); and<br><br>(2) even if shoes can constitute dangerous weapons, the motion to quash should have been granted because there was no evidence that the defendant was "armed with a dangerous weapon" during the assault as required by MCL 764.1f(2)(b). | The defendant, a juvenile, has been charged with assault with intent to do great bodily harm less than murder, on an aiding and abetting theory, for allegedly recording a video of two other juveniles assaulting a 16-year-old boy by punching and kicking him. The defendant has been charged as an adult under the automatic waiver statute, MCL 764.1f.<br><br>The defendant filed motions in the circuit court to quash the bindover and to dismiss for lack of personal jurisdiction, arguing that the prosecution failed to establish that he was "armed with a dangerous weapon" as required under MCL 764.1f(2)(b).<br><br>The trial court denied the motions because the footwear worn by the alleged assailants were dangerous weapons within the meaning of the automatic waiver statute.<br><br>The Court of Appeals denied the defendant's application for leave to appeal, but the Supreme Court remanded the case to the Court of Appeals for consideration as on leave granted.<br><br>On remand, the Court of Appeals, in a 2-1 unpublished opinion, affirmed the trial court. | 4/12/2023 | 4/24/2024 | |

| File number (hyperlinked to docket) | Case name | Case Type Code | Argt type (hyperlinked to order) | Briefed Qs | Modified plain language summary | Date filed | Date argued | Dated decided |
|---|---|---|---|---|---|---|---|---|
| 165577 | **Progressive Marathon Ins Co v Pena** | CZ | MOAA | The parties shall file supplemental briefs in accordance with MCR 7.312(E), addressing whether automobile policies delivered or issued for delivery prior to July 2, 2020, that insure against loss "resulting from liability imposed by law for property damage, bodily injury, or death suffered by any person arising out of the ownership, maintenance, or use of a motor vehicle," are subject to heightened liability coverage limits effective after July 1, 2020. See MCL 500.3009(1)(a), (b). | On August 5, 2020, Brittney Giddings rear-ended another vehicle, propelling it into oncoming traffic, where it collided with a motorcycle operated by John Michael Pena and occupied by Krystle Sewell.<br><br>Pena and Sewell sought personal protection insurance (PIP) benefits under the no-fault act from Progressive Marathon Insurance Company, which insured Giddings' vehicle pursuant to a six-month insurance policy that became effective on March 11, 2020, and expired on September 11, 2020. Along with providing for unlimited PIP benefits, the policy provided bodily injury liability coverage limited to $20,000 for any one person and $40,000 for any one accident.<br><br>Pena and Sewell filed a negligence action against Giddings, seeking damages for bodily injury.<br><br>Progressive filed a separate lawsuit against Pena, Sewell, and Giddings, seeking a declaration that it was not obligated to provide liability coverage for any amount above the $20,000/$40,000 bodily injury limits stated in the insurance policy.<br><br>Pena and Sewell argued that the bodily injury liability limits were $250,000/$500,000 under the MCL 500.3009 amendment, which raised the minimum bodily injury liability limits in automobile policies, effective after July 1, 2020.<br><br>The trial court granted summary disposition in favor of Pena and Sewell, but the Court of Appeals reversed in a published opinion, holding that the legislative reforms regarding tort liability under the no-fault act impact only policies issued or renewed after July 1, 2020. | 4/19/2023 | 5/8/2024 | |

| File number (hyperlinked to docket) | Case name | Case Type Code | Argt type (hyperlinked to order) | Briefed Qs | Modified plain language summary | Date filed | Date argued | Dated decided |
|---|---|---|---|---|---|---|---|---|
| 165741 | **McLain v Lansing Diocese** | NO | LG | (1) the three-year period to commence an action set forth in MCL 600.5851b(1)(b) renders the plaintiff's lawsuit timely due to his alleged recent discovery of the causal relationship between his purported injuries and the alleged criminal sexual conduct, and if not,<br><br>(2) under an analysis of the factors set forth in *LaFontaine Saline, Inc v Chrysler Group, LLC* , 496 Mich 26, 38-39 (2014), MCL 600.5851b(1)(b) applies retroactively to the time of the wrong such that the plaintiff's claims were timely filed. | The plaintiff claims that in 1999 he was abused by defendant Father Richard Lobert, a Catholic priest, who worked at a school where the plaintiff was a 16-year-old student. The plaintiff alleges that he did not discover the connection between his mental health issues and Lobert's sexual abuse until he revealed the abuse to a therapist in 2020.<br><br>In 2021, the plaintiff sued Lobert, as well as the Roman Catholic Diocese of Lansing and the Roman Catholic Archdiocese of Baltimore, alleging negligence based on the sexual abuse.<br><br>The defendants moved for summary disposition under MCR 2.116(C)(7), arguing that the claims were time-barred under the applicable limitations period.<br><br>The plaintiff argued that his complaint was timely under MCL 600.5851b, which was enacted in 2018. The plaintiff relied on MCL 600.5851b(1)(b), which provides that an individual who was the victim of criminal sexual conduct while a minor may commence an action to recover damages at any time before "[t]hree years after the date the individual discovers, or through the exercise of reasonable diligence should have discovered, both the individual's injury and the causal relationship between the injury and the criminal sexual conduct."<br><br>The trial court agreed with the plaintiff and denied the defendants' motions for summary disposition.<br><br>The Roman Catholic Diocese of Lansing and the Roman Catholic Archdiocese of Baltimore each appealed.<br><br>Following consolidation of the two appeals, the Court of Appeals, in a published opinion, reversed the trial court's ruling and held that summary disposition was appropriate because the plaintiff's claims were time-barred. | 6/8/2023 | 4/16/2024 | |

| File number (hyperlinked to docket) | Case name | Case Type Code | Argt type (hyperlinked to order) | Briefed Qs | Modified plain language summary | Date filed | Date argued | Dated decided |
|---|---|---|---|---|---|---|---|---|
| 165770 | **Jostock (Ronald & Susan) v Mayfield Twp** | AA | LG | (1) whether MCL 125.3405 allows for uses not otherwise authorized in a particular zone; [MSC opinion: "a conditional rezoning is invalid under MCL 125.3405(1) if the proposed use is not a permitted use—either by right or after special approval—within the proposed zoning district."]<br><br>(2) what mechanism was used to authorize the current use as a dragway, and whether that mechanism is available to authorize or expand the use of the appellant's property;<br><br>(3) whether operation of a dragway is an authorized use under C-2; and [MSC opinion: "But the issue of whether a dragway is a permitted use in the C-2 district was not specifically addressed by the parties in the proceedings below. Therefore, we believe the trial court should be given an opportunity to address this question and any other questions that the parties may properly raise in light of our holding regarding MCL 125.3405(1)." And n 12: "To be clear, we take no position on the proper interpretation of the Township's zoning ordinance with respect to whether a dragway is a permitted use in the C-2 zoning district."]<br><br>(4) whether the township's conditional rezoning of the appellant's property is valid under MCL 125.3405. | The Lapeer International Dragway is in a R-1 zoning district in Mayfield Township in Lapeer County. The dragway started in 1968 and historically operated as a nonconforming use with limited hours, as allowed by the township.<br><br>In 2018, A2B Properties, LLC purchased the dragway and began expanding its facilities and hours of operation.<br><br>In 2019, nearby landowners sued A2B in circuit court to abate what they characterized as a nuisance, seeking declaratory and injunctive relief.<br><br>The circuit court entered a preliminary injunction that limited the dragway's hours.<br><br>In spring of 2021, A2B petitioned for rezoning with the township, seeking to have the property rezoned from R-1 to C-2, and then voluntarily filed a conditional rezoning agreement with the township, seeking to have the property rezoned to C-2 subject to certain limitations on the dragway's hours and operations.<br><br>In June 2021, after public hearings and meetings, the township board followed the planning commission's recommendation and adopted the conditional rezoning agreement and rezoned the property to C-2 subject to the agreement's terms.<br><br>A2B immediately filed a motion in the still-pending 2019 circuit court action for relief from the preliminary injunction. The circuit court denied the motion, reasoning that because dragway operations were not a permitted use in the C-2 zoning district, the conditional rezoning that purported to allow the dragway to operate was invalid.<br><br>Meanwhile, in July of 2021, plaintiffs Ronald and Susan Jostock, who live near the dragway, filed a separate lawsuit against A2B, the township, and the township board of trustees, seeking a declaration that the rezoning was erroneous and an injunction enjoining the rezoning. The defendants filed separate motions for summary disposition.<br><br>The circuit court denied the motions, denied the plaintiffs' request for injunctive relief, and granted declaratory relief in favor of the plaintiffs. The circuit court concluded that because a dragway was not a permitted use in the C-2 zoning district, and the conditional rezoning purported to only allow a dragway use, the rezoning was invalid. | 6/15/2023 | 4/17/2024 | 7/1/2024 |

| File number (hyperlinked to docket) | Case name | Case Type Code | Argt type (hyperlinked to order) | Briefed Qs | Modified plain language summary | Date filed | Date argued | Dated decided |
|---|---|---|---|---|---|---|---|---|
| 165806 | **P v Lucynski (David Allan)** | AR | MOAA | The parties shall file supplemental briefs in accordance with MCR 7.312(E), addressing whether application of the exclusionary rule is proper where the deputy sheriff had no reasonable suspicion to believe that the defendant violated the law, given that there was no evidence to support the deputy's hunch that an illegal drug transaction had taken place and the deputy did not make a reasonable mistake of law to the extent that he stopped the defendant for a suspected violation of MCL 257.676b(1). | The defendant and another motorist, who was traveling in the opposite direction, stopped their vehicles in the middle of a rural dirt road, with their driver's side windows down, and talked to one another.<br><br>A deputy sheriff conducted a traffic stop of the defendant for impeding traffic, even though there was no actual traffic on the road at that time.<br><br>After the two vehicles separated, the deputy followed the defendant's vehicle. When the defendant pulled into the driveway of a residence, the deputy pulled his vehicle behind the defendant's vehicle. The deputy alleges that when he approached the defendant, he noticed odors of marijuana and alcohol and learned that the defendant had no driver's license. According to the deputy, the defendant was unable to successfully perform field sobriety tests and the deputy found marijuana and alcohol inside the defendant's vehicle. The deputy arrested the defendant for operating a motor vehicle under the influence of an intoxicating substance. A later blood test revealed the presence of THC, the psychoactive ingredient of marijuana. The defendant was charged with operating a motor vehicle under the influence of alcohol and a controlled substance, driving with a suspended license, and having an open container of alcohol in his vehicle.<br><br>The district court found that the traffic stop was invalid and refused to bind defendant over to the circuit court for operating while intoxicated. The district court bound defendant over on the other charges, but held that no evidence obtained during the traffic stop could be introduced at trial.<br><br>The prosecutor appealed, but the circuit court denied leave to appeal. The Court of Appeals granted leave to appeal and reversed the ruling of the district court, holding that actual traffic need not be present for a motorist to be stopped for impeding traffic and that the defendant was not actually subjected to a seizure until the deputy asked for his driver's license and discovered that he had none. The Supreme Court granted leave to appeal and held that: (1) the defendant was seized at the moment his vehicle was blocked in the driveway by a marked police vehicle; (2) MCL 257.676b(1) is not violated unless the normal flow of traffic has actually been disrupted; and (3) the deputy sheriff's misunderstanding of the statute was not a reasonable mistake of law. So the Supreme Court reversed the Court of Appeals' judgment and remanded the case to that court to decide whether applying the exclusionary rule was the correct remedy. *People v Lucynski* , 509 Mich 618, 657-658 (2022).<br><br>On remand, the Court of Appeals, in an unpublished opinion, held that applying the exclusionary rule was *not* the correct remedy. | 6/26/2023 | 4/17/2024 | |

| **File number** (hyperlinked to docket) | **Case name** | **Case Type Code** | **Argt type** (hyperlinked to order) | **Briefed Qs** | **Modified plain language summary** | **Date filed** | **Date argued** | **Dated decided** |
|---|---|---|---|---|---|---|---|---|
| **165815** | **In re Bates, Minors** (argued with 165889) | NA | **MOAA** | The parties shall file supplemental briefs in accordance with MCR 7.312(E), addressing whether, when a child is in the care of a relative, the trial court is required to consider and eliminate available alternative remedies short of termination as a matter of:<br><br>(1) constitutional due process, see generally *Washington v Glucksberg* , 521 US 702, 721 (1997) (The government may not infringe on fundamental liberty interests "unless the infringement is narrowly tailored to serve a compelling state interest."); or<br><br>(2) statute, see MCL 712A.19b(5); and<br><br>(3) whether the trial court erred in this case. | The Department of Health and Human Services (DHHS) petitioned to remove the respondent-mother's two children from her care and to terminate her parental rights because of her substance abuse and mental health issues and her inability to care for her children's health care needs.<br><br>The children are in the custody of their father, who is divorced from the respondent and is not a party to these legal proceedings.<br><br>One of the children has been diagnosed with type 1 diabetes and had to be hospitalized while in the respondent's care. The respondent pled guilty to third-degree child abuse and served time in jail due to her failure to provide the child with proper medical assistance.<br><br>Following a termination hearing, the trial court found that there were statutory grounds to terminate the respondent's parental rights under MCL 712A.19b(3)(c)(i) (conditions that led to adjudication continue to exist) and (j) (reasonable likelihood of harm if returned to parent). Although the children were placed with their father, the trial court concluded that termination of the respondent's parental rights was in the children's best interests.<br><br>On appeal, the respondent challenged whether there were statutory grounds to terminate her parental rights, but the Court of Appeals affirmed the trial court in a 2-1 unpublished opinion. The respondent filed a motion for reconsideration, challenging the trial court's determination that termination was in the children's best interests. The Court of Appeals denied the motion for reconsideration.<br><br>The respondent filed an application for leave to appeal in the Supreme Court, which remanded the case to the Court of Appeals for consideration of whether the trial court clearly erred by concluding that termination of the respondent's parental rights was in the children's best interests. On remand, the Court of Appeals affirmed the trial court in a 2-1 unpublished opinion. | 6/26/2023 | **5/8/2024** | |

| File number (hyperlinked to docket) | Case name | Case Type Code | Argt type (hyperlinked to order) | Briefed Qs | Modified plain language summary | Date filed | Date argued | Dated decided |
|---|---|---|---|---|---|---|---|---|
| 165889 | **In re D.N. Dailey, minor** (argued with 165815) | NA | MOAA | The parties shall file supplemental briefs in accordance with MCR 7.312(E), addressing whether, when a child is in the care of a relative, the trial court is required to consider and eliminate available alternative remedies short of termination as a matter of:<br><br>(1) constitutional due process, see generally *Washington v Glucksberg* , 521 US 702, 721 (1997) (The government may not infringe on fundamental liberty interests "unless the infringement is narrowly tailored to serve a compelling state interest."); or<br><br>(2) statute, see MCL 712A.19b(5); and<br><br>(3) whether the trial court erred in this case. | In April 2019, the Department of Health and Human Services (DHHS) filed a petition requesting that the trial court assume jurisdiction over the respondents' minor child. The child was placed in the care of his maternal grandmother, where he has remained throughout the case.<br><br>The respondents entered pleas of admission in which they admitted that the child was born with drugs in his system, that they continued to abuse heroin, and that their continued drug use impaired their ability to care for the child. The trial court accepted the pleas and found statutory grounds to assume jurisdiction over the child.<br><br>During a later dispositional hearing, the respondents were ordered to comply with a treatment plan designed to address their substance abuse issues and improve their parenting skills.<br><br>In November 2019, the permanency plan was changed from reunification to adoption.<br><br>In January 2020, DHHS filed a supplemental petition seeking termination of the respondents' parental rights. Both respondents entered pleas of admission and stipulated that statutory grounds existed to support termination of their parental rights under MCL 712A.19b(3)(c)(i), (g), and (j). The trial court accepted the pleas and found clear and convincing evidence to terminate the respondents' parental rights. Following a best-interests hearing in March and July 2022, the trial court found that termination of the respondents' parental rights was in the child's best interests.<br><br>The Court of Appeals affirmed in an unpublished opinion. The respondent-father (but not the respondent-mother) filed an application for leave to appeal in the Supreme Court, arguing that the Court of Appeals erred by upholding termination as in the child's best interests despite his close bond with the child and the child's placement with a relative. According to the respondent-father, the trial court should have at least ordered a guardianship and erred by failing to determine whether termination of his parental rights was the best | 7/13/2023 | 5/8/2024 | |

| File number (hyperlinked to docket) | Case name | Case Type Code | Argt type (hyperlinked to order) | Briefed Qs | Modified plain language summary | Date filed | Date argued | Dated decided |
|---|---|---|---|---|---|---|---|---|
| 166305 | **Batista v ORS** | MZ | MOAA | (1) whether the phrase "normal salary schedule" in MCL 38.1303a(3)(f) refers only to a provision contained in a collective-bargaining agreement; and<br><br>(2) if not, from what other source may a "normal salary schedule" be derived. | The plaintiffs are current or retired public school superintendents and administrators who work or worked under personal employment contracts, not collective bargaining agreements. They sued the defendants in the Court of Claims, arguing that their pension benefits should be higher under the Michigan Public School Employees Retirement Act (the Retirement Act), MCL 38.1301 et seq.<br><br>Part of the formula for determining such benefits is a member's "final average compensation." MCL 38.1303a(3)(f) provides, "Compensation does not include . . . [c]ompensation in excess of an amount over the level of compensation reported for the preceding year except increases provided by the normal salary schedule for the current job classification." Because normal salary schedules are typically set forth in collective bargaining agreements, this case involves the proper interpretation of MCL 38.1303a(3)(f) when there is no collective bargaining agreement, and therefore, no normal salary schedule.<br><br>Defendant Office of Retirement Services (ORS) created normal salary increase (NSI) schedules to apply in these cases. The plaintiffs argue that the ORS did not have the authority to create NSI schedules.<br><br>The Court of Claims granted the defendants' motions for summary disposition, denied the plaintiffs' motion for summary disposition, and dismissed the case.<br><br>The Court of Appeals, in a published opinion, reversed and remanded for entry of a judgment for the plaintiffs with respect to declaratory relief, holding that the Retirement Act does not authorize the ORS to create and implement NSI schedules.<br><br>The Supreme Court heard oral argument on the defendants' application for leave to appeal and (1) affirmed the Court of Appeals' holding that the ORS lacks the authority to create and implement its own NSI schedules; (2) vacated the judgment of the Court of Appeals to the extent it held that the phrase "normal salary schedule" in MCL 38.1303a(3)(f) refers only to a provision contained in a collective bargaining agreement; (3) reversed the Court of Appeals' holding that MCL 38.1303a(3)(f) does not govern public school employees who work under personal employment contracts rather than collective bargaining agreements; and (4) remanded the case to the Court of Appeals to address how MCL 38.1303a(3)(f) applies to public school employees who do not work under collective bargaining agreements and to address how this holding affects the plaintiffs' claims. *Batista v Office of Retirement Servs* , 511 Mich 973 (2023).<br><br>On remand, the Court of Appeals, in a published opinion, reversed and remanded for entry of judgment for the plaintiffs with | 10/26/2023 | 4/16/2024 | |

| File number (hyperlinked to docket) | Case name | Case Type Code | Argt type (hyperlinked to order) | Briefed Qs | Modified plain language summary | Date filed | Date argued | Dated decided |
|---|---|---|---|---|---|---|---|---|
| 166424-5 | **O'Halloran, et al. v Secretary of State** (joined with 166425) | MZ | MOAA | (1) the challenged provisions of the election procedure manual issued by the Secretary of State are consistent with Michigan Election Law, MCL 168.1 et seq.; and<br><br>(2) even if authorized by statute, the Secretary of State was required to promulgate the challenged provisions as formal rules under the Administrative Procedures Act, MCL 24.201 et seq. | In May 2022, the Secretary of State issued an election procedure manual "The Appointment, Rights, and Duties of Election Challengers and Poll Watchers" which gives instructions to election challengers and poll watchers. The manual was not published as a formal administrative rule under the Administrative Procedures Act (APA), MCL 24.201 et seq.<br><br>Two groups of plaintiffs filed separate lawsuits in the Court of Claims in September 2022, challenging various manual provisions. The plaintiffs include election challengers for the November 2022 general election, two candidates for the Michigan Legislature, the Michigan Republican Party, and the Republican National Committee. The plaintiffs allege that various manual provisions violate the Michigan Election Law, MCL 168.1 et seq., and that the manual was promulgated without the notice-and-comment requirements outlined in the APA.<br><br>The Court of Claims granted some, but not all, of the relief plaintiffs requested, finding five areas in which the plaintiffs were entitled to relief.<br><br>The defendants filed applications for leave to appeal in the Court of Appeals, as well as bypass applications for leave to appeal in the Supreme Court.<br><br>On November 3, 2022, the Supreme Court, instead of granting leave to appeal, stayed the effect of the opinion and order of the Court of Claims and any decision of the Court of Appeals, but otherwise declined to review the cases before review by the Court of Appeals. *O'Halloran v Secretary of State* , 510 Mich 970 (2022); *DeVisser v Secretary of State* , 510 Mich 994 (2022).<br><br>On October 19, 2023, the Court of Appeals affirmed the Court of Claims in a published opinion. | 11/30/2023 | 6/18/2024 | |