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FOR IMMEDIATE RELEASE

# Juvenile lifer cases, ethics charges against Wayne County judge to be heard by Supreme Court in oral arguments

LANSING, MI, February 27, 2014 – Three men who as teenagers were sentenced to life without parole for first-degree murder will have their cases heard by the Michigan Supreme Court in oral arguments next week.

The defendants in *People v Carp*, *People v Davis*, and *People v Eliason* challenge their life-without-parole sentences based on the U.S. Supreme Court's ruling in *Miller v Alabama*, 567 US ___; 132 S Ct 2455; 183 L Ed 2d 407 (2012). The *Miller* Court held that mandatory life without parole for juveniles convicted of murder violates the Eighth Amendment prohibition against cruel and unusual punishment. Among the issues before Michigan's high court: How *Miller* applies to Michigan sentencing in homicide cases and whether *Miller* applies retroactively in cases where offenders have already unsuccessfully appealed their sentences.

The Supreme Court will also hear *In re Hon. Bruce U. Morrow*, in which a Wayne County Circuit judge faces ethics charges over his handling of a number of criminal cases; the Judicial Tenure Commission has asked for the Supreme Court to suspend the judge without pay for 90 days.

Also before the Court is *In re AJR, Minor*, in which the petitioner-mother's second husband seeks to adopt her son from her first marriage, a process that would involve terminating the father's parental rights. The father argues that the stepparent adoption statute – which allows termination of a non-custodial parent's rights under some circumstances – does not apply to him because, although he does not have physical custody of the child, he has joint legal custody with his ex-wife.

Also to be argued: A medical malpractice case (*Johnson v Kowalski*), a dispute over a Wayne County retirement fund (*Wayne County Employees Retirement System v County of Wayne*), an insurance coverage question (*Hunt v Drielick*), and a dispute between Chrysler and one of its dealers (*LaFontaine v Chrysler Group*).

The Court will hear oral arguments in its courtroom on the sixth floor of the Michigan Hall of Justice on **March 5 and 6**, starting at **9:30 a.m.** each day. Oral arguments are open to the public; the Court also live streams its hearings at

*http://www.courts.mi.gov/Courts/MichiganSupremeCourt/oral-arguments/live streaming/Pages/live-streaming.aspx*.

Summaries of the cases the Supreme Court will hear are posted on the "One Court of Justice" website; see *http://www.courts.mi.gov/Courts/MichiganSupremeCourt/oral-arguments/Pages/default.aspx* for the oral argument schedule and links to case summaries.

*Please note: These brief accounts may not reflect the way that some or all of the Court's seven justices view the cases. The attorneys may also disagree about the facts, issues, procedural history, and significance of these cases. For further details about the cases, please contact the attorneys. The State Bar of Michigan provides a directory of Michigan attorneys at www.michbar.org*.

**Wednesday, March 5**
***Morning session***

**IN RE HONORABLE BRUCE U. MORROW (case no. 146802)**
**Attorney for Hon. Bruce U. Morrow**: Donald Campbell
**Attorney for the Judicial Tenure Commission:** Paul J. Fischer
**Tribunal**: Judicial Tenure Commission

**Issue**: The Judicial Tenure Commission contends that Wayne County Circuit Judge Bruce Morrow committed judicial misconduct while presiding over eight criminal cases and asks the Michigan Supreme Court to suspend the judge for 90 days. The judge denies that he committed misconduct, contending that most of the errors identified by the JTC were legal errors only, and that they constitute a small percentage of the decisions that he has made in his years on the bench. **Read More**

**ESTATE OF BARBARA JOHNSON v ROBERT F. KOWALSKI, M.D. (case no. 145773 )**
**Attorney for plaintiff-appellee Estate of Barbara Johnson**: Alan Falk, Cyril V. Weiner
**Attorney for defendant-appellant Robert F. Kowalski, M.D.**: Robert G. Kamenec
**Trial Court**: Wexford Circuit Court

**Issue**: The jury in this medical malpractice case returned a verdict for the defendant doctor and hospital. Is the plaintiff entitled to a new trial because the trial court excluded impeachment evidence that may have affected the jury's consideration of a key witness's testimony? **Read More**

**WAYNE COUNTY EMPLOYEES RETIREMENT SYSTEM v CHARTER COUNTY OF WAYNE (case no. 147296)**
**Attorney for plaintiffs-appellees Wayne County Employees Retirement System and Wayne County Retirement Commission**: Marie T. Racine, Brian G. Shannon
**Attorney for defendants-appellants Charter County of Wayne and Wayne County Board of Commissioners**: Phillip J. DeRosier
**Trial Court**: Wayne Circuit Court

**Issue**: In 2010, Wayne County adopted an ordinance allowing funds to be transferred from an inflation equity fund, which was established for the benefit of retirement plan participants and their beneficiaries, to the county's defined benefit retirement funds. The 2010 ordinance also capped the annual amount that the inflation equity fund could pay out to eligible recipients. Does the 2010 ordinance violate the state constitution or the Public Employee Retirement System Investment Act? **Read More**

***Afternoon break***

**MARIE HUNT, Personal Representative of the Estate of Eugene Wayne Hunt v ROGER DRIELICK and COREY DRIELICK, d/b/a ROGER DRIELICK TRUCKING (case nos. 146433-5)**
**Attorney for plaintiffs and appellant Great Lakes Carrier Corporation**: Bruce F. Trogan, David Carbajal
**Attorney for plaintiffs and appellant Sargent Trucking, Inc.:** Steven M. Hickey, Andrew Finn
**Attorney for third-party-defendants/counter-defendants-appellees Noreen Luczak and Thomas Luczak**: Peter J. Riebschleger
**Attorney for garnishee-appellee Empire Fire and Marine Insurance Company**: Nicolette S. Zachary
**Attorney for plaintiff-appellant Brandon James Huber**: Joseph S. Harrison
**Trial Court**: Bay Circuit Court

**Issue**: The plaintiffs argue that the insurance company that issued a policy entitled "Insurance for Non-Trucking Use" is obligated to pay for damages arising from a traffic accident caused by a semi-tractor owned by a trucking company. Does the policy apply or is coverage precluded by the business use exclusion? **Read More**

**Thursday, March 6**
***Morning session***

**IN RE AJR MINOR (case no. 147522)**
**Attorney for petitioners Steven Merrill and Susan Merrill**: Scott G. Bassett, Cynthia S. Harmon
**Attorney for respondent-father Pierre Dominique Roustan**: Vivek Sankaran, Trish Oleksa Haas
**Trial Court**: Kent Circuit Court Family Division

**Issue**: MCL 710.51(6) allows for the termination of a non-custodial parent's parental rights during a stepparent adoption. In this case, a divorced mother remarried, then she and her second husband sought to terminate the father's parental rights so that the second husband could adopt the child. The father argues that the statute does not apply to him because he had shared legal custody with the mother. **Read More**

**PEOPLE v RAYMOND CURTIS CARP (case no. 146478)**
**Prosecuting Attorney**: Timothy K. Morris
**Attorney for defendant-appellant Raymond Curtis Carp**: Patricia L. Selby
**Trial Court**: St. Clair Circuit Court

**Issue**: In *Miller v Alabama*, the United States Supreme Court held that "mandatory life without parole for those under the age of 18 at the time of their crimes violates the Eighth Amendment's prohibition on 'cruel and unusual punishments.'" Does *Miller* apply retroactively, so that a defendant may be entitled to relief even after his appeals have concluded and his conviction is final? **Read More**

**PEOPLE v CORTEZ ROLAND DAVIS (case no. 146819)**
**Prosecuting Attorney**: Timothy A. Baughman
**Attorney for defendant-appellant Cortez Roland Davis**: Clinton J. Hubbell
**Trial Court**: Wayne Circuit Court

**Issue**: The Eighth Amendment to the U.S. Constitution bans "cruel and unusual punishments," while the Michigan Constitution, Article 1, Section 16, bans "cruel or unusual punishments." Do either of these bans categorically bar the imposition of a sentence of life without parole on a juvenile defendant who was convicted of first-degree murder for aiding and abetting felony murder? If so, does this rule apply retroactively to cases in which the conviction has become final? **Read More**

**PEOPLE v DAKOTAH WOLFGANG ELIASON (case no. 147428)**
**Prosecuting Attorney**: Elizabeth A. Wild
**Attorney for defendant-appellant Dakotah Wolfgang Eliason**: Jonathan R. Sacks
**Trial Court**: Berrien Circuit Court

**Issue**: In *Miller v Alabama*, the U.S. Supreme Court held that "mandatory life without parole for those under the age of 18 at the time of their crimes" violates the Eighth Amendment to the U.S. Constitution's prohibition on "cruel and unusual punishments." What remedy is required for a defendant whose mandatory sentence of life without parole for first-degree murder is invalid under *Miller*? Does the imposition of a life sentence with the possibility of parole violate the Michigan Constitution's prohibition on "cruel or unusual punishment"? **Read More**

***Afternoon session***

**LaFONTAINE SALINE, INC. d/b/a LaFONTAINE CHRYSLER JEEP DODGE RAM v CHRYSLER GROUP LLC (case nos. 146722 and 146724)**
**Attorney for plaintiff-appellee LaFontaine Saline, Inc.**: Ward M. Powers
**Attorney for defendant-appellant Chrysler Group LLC**: Jill M. Wheaton
**Attorney for defendant-appellant IHS Automotive Group LLC:** Mary Massaron Ross
**Trial Court**: Washtenaw Circuit Court

**Issue**: LaFontaine, a Chrysler dealer, brought a declaratory judgment action to determine if Chrysler had good cause for entering into a dealer agreement with a nearby dealer. Is the nearby dealer within the "relevant market area" as defined by the motor vehicle dealers act, so that LaFontaine has standing to bring the declaratory judgment action? **Read More**

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