

MICHIGAN SUPREME COURT



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Michigan Supreme Court Hears First Oral Arguments of 2012-2013 Session; Two Medical Marihuana Cases, 10 Others to Be Heard Oct. 9-11

LANSING, MI, October 4, 2012 – Two cases involving Michigan’s medical marihuana statute will be argued before the Michigan Supreme Court next week, as the Court opens its 2012-2013 oral arguments session.

At issue in *State of Michigan v McQueen* is whether the Michigan Medical Marihuana Act permits patient-to-patient sales of marihuana. The Court will also hear *People v Bylsma*, in which the defendant argues that the MMMA allows registered caregivers and qualifying patients to grow marihuana together in a collective or cooperative arrangement.

The Court will hear arguments on October 9, 10, and 11, starting at 9:30 a.m. each day. In keeping with tradition, the Court will hear the first case of the new session, *Boertmann v Cincinnati Insurance Company*, in the Old Supreme Court Courtroom in the Capitol in Lansing. The Court will hear the 11 other cases in its courtroom on the 6th floor of the Michigan Hall of Justice in Lansing. The Court’s oral arguments are open to the public.

As a public service, the Court provides summaries of the cases it will hear at <http://www.courts.michigan.gov/Courts/MichiganSupremeCourt/Clerks/Oral-Arguments/Pages/default.aspx>.

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.

Tuesday, October 9

Morning Session (Old Supreme Court courtroom, Capitol Building)

BOERTMANN v CINCINNATI INSURANCE COMPANY (case no. 142936)

Attorneys for plaintiff Gale Boertmann: Ellen G. Schreuder, Drew Slager/(586) 751-3900

Attorney for defendant Cincinnati Insurance Company: Robert P. Hurley/(248) 614-9200

Attorney for amicus curiae Michigan Defense Trial Counsel, Inc.: Valerie Henning
Mock/(248) 324-2620

Attorney for amicus curiae Michigan Association for Justice: Barbara H. Goldman/(248)
569-9011

Trial Court: Macomb County Circuit Court

At issue is whether the plaintiff can recover auto no-fault insurance benefits for physical symptoms caused by her depression, which she suffered after witnessing the fatal collision between her son's motorcycle and another vehicle. [Read more ...](#)

Afternoon Session (Michigan Hall of Justice)

ADER v DELTA COLLEGE BOARD OF TRUSTEES (case no. 143621)

Attorney for plaintiff Timothy Ader: Roland J. Jersevic/(989) 799-6960

Attorney for defendant Delta College Board of Trustees: Joseph Nimako/(734) 261-2400

Attorney for amicus curiae Michigan Municipal League, Michigan Townships Association, and Public Corporation Law Section of the State Bar of Michigan: Steven D. Mann/(313) 963-6420

Trial Court: Saginaw County Circuit Court

The plaintiff contends that the defendant college board of trustees, which was being sued by one of its members, violated the Open Meetings Act by holding a closed session that included that member and his attorney, in addition to the board's own legal counsel. [Read more ...](#)

ESTATE OF DARRYL ILE, et al. v FOREMOST INSURANCE COMPANY (case no. 143627)

Attorney for plaintiffs Debra Ile, as Personal Representative of the Estate of Darryl Ile, and Debra Ile, individually and on behalf of themselves and all others similarly situated:

Thomas A. Biscup/(586) 566-7266

Attorney for defendant Foremost Insurance Company: Jason L. Byrne/(616) 752-2000

Attorney for amicus curiae Insurance Institute of Michigan: Kimberlee A. Hillock/(517) 351-6200

Trial Court: Wayne County Circuit Court

A motorcyclist was killed when his motorcycle collided with a parked vehicle. After his estate collected \$20,000 – the limit on that policy – from the parked car's insurer, the estate sought to recover an additional \$20,000 in underinsured motorist (UIM) benefits from the defendant, which insured the motorcycle. The defendant insurer denied the estate's claim, contending that when a policyholder selects the minimum UM/UIM coverage limits of \$20,000/\$40,000, as the deceased did, it is impossible for another vehicle to be defined as "underinsured." [Read more ...](#)

Wednesday, October 10

Morning Session

PEOPLE v ZAJACZKOWSKI (case no. 143736)

Prosecuting attorney: Timothy K. McMorrow/(616) 632-6710

Attorney for defendant Jason Joseph Zajackowski: Ronald D. Ambrose/(734) 266-8250

Attorney for amicus curiae Family Law Section of the State Bar of Michigan: Katherine L. Root/(517) 346-6300

Trial Court: Kent County Circuit Court

The defendant and the 14-year-old victim in this criminal sexual conduct case share the same legal father; the defendant was conceived and born during the marriage of his mother to his legal father, and a 1979 divorce judgment identifies the then-boy as the child of the marriage. The defendant seeks to reduce his first-degree CSC charge – an element of which is that the

defendant is related to the victim “by blood or affinity” – on the basis of DNA testing that shows he is not his legal father’s biological son. [Read more ...](#)

DEBANO-GRIFFIN v LAKE COUNTY, et al. (case no. 143841)

Attorney for plaintiff Cheryl Debanogriffin: Mark R. Granzotto/(248) 546-4649

Attorneys for defendants Lake County and Lake County Board of Commissioners: John R. McGlinchey, Kristen L. Baiardi/(313) 566-2500

Trial Court: Lake County Circuit Court

The plaintiff, the former director of Lake County’s 911 department, seeks to pursue a Whistleblowers Protection Act claim against the county. She contends that she was fired because, among other matters, she objected to a transfer of money from the county’s ambulance fund. [Read more ...](#)

KIM v JP MORGAN CHASE BANK (case no. 144690)

Attorney for plaintiffs Euihyung Kim and In Sook Kim: Bernhardt D. Christenson/(810) 232-1112

Attorney for defendant JP Morgan Chase Bank: Jill M. Wheaton/(734) 214-7629

Attorney for amicus curiae Michigan Association of Realtors: Gregory L. McClelland/(517) 482-4890

Attorney for amicus curiae Michigan Bankers Association: Nicole L. Mazzocco/(616) 752-2000

Attorney for amicus curiae Real Property Law Section of the State Bar of Michigan: James L. Allen/(248) 879-2000

Trial Court: Macomb County Circuit Court

The bank holding the plaintiffs’ mortgage failed, and the failed bank’s loans were bought by JP Morgan Chase Bank pursuant to the Financial Institutions Reform, Recovery and Enforcement Act of 1989. The plaintiffs challenge Chase’s foreclosure of their home, arguing in part that the foreclosure was legally void because there was no recorded assignment from their failed bank to Chase. [Read more ...](#)

Afternoon Session

PEOPLE v KIYOSHK (case no. 143469)

Prosecuting attorney: Heather S. Bergmann/(269) 383-8900

Attorney for defendant Christopher Blayne Kiyoshk: Arthur H. Landau/(248) 948-0893

Trial Court: Kalamazoo County Circuit Court

As an adult, the defendant pled guilty to a sexual assault that he may have committed when he was too young to be subject to adult court jurisdiction. At issue is whether his guilty plea must be vacated. [Read more ...](#)

PEOPLE v TRAKHTENBERG (case no. 143386)

Prosecuting attorney: Matthew A. Fillmore/(248) 858-0656

Attorney for defendant Jacob Trakhtenberg: Robyn B. Frankel/(248) 541-5200

Trial Court: Oakland County Circuit Court

The defendant, who was convicted of three counts of second-degree criminal sexual conduct, unsuccessfully sued his attorney for legal malpractice. One issue in this case is whether rulings in

that civil case bar the defendant from seeking a new criminal trial on the ground that he was denied his constitutional right to effective assistance of counsel. [Read more ...](#)

Thursday, October 11
Morning Session Only

STATE OF MICHIGAN v MCQUEEN, et al. (case no. 143824)

Attorney for plaintiff State of Michigan: Risa N. Scully/(989) 772-0911

Attorney for defendants Brandon McQueen and Matthew Taylor, d/b/a Compassionate Apothecary, LLC: Mary Chartier/(517) 482-2000

Attorney for amicus curiae Attorney General Bill Schuette: Heather S. Meingast/(517) 373-6889

Attorney for amicus curiae Michigan Municipal League, Michigan Townships Association, and Public Corporation Law Section of the State Bar of Michigan: Gerald A. Fisher/(248) 514-9814

Attorneys for amicus curiae Ann Arbor Medical Cannabis Guild, Inc.: Dennis M. Hayes/(734) 995-4646, David P. Cahill/(734) 769-0753, Rosemary Gordon Pánuco/(520) 797-6928

Trial Court: Isabella County Circuit Court

At issue is whether the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.*, permits patient-to-patient sales of marihuana. [Read more ...](#)

PEOPLE v BYLSMA (case no. 144120)

Prosecuting attorney: Gary A. Moore/(616) 632-6710

Attorney for defendant Ryan Michael Bylsma: Bruce A. Block/(616) 458-8585

Attorney for amicus curiae Attorney General Bill Schuette: Jennifer K. Clark/(517) 373-4875

Attorney for amicus curiae Michigan Municipal League and Public Corporation Law Section of the State Bar of Michigan: Gerald A. Fisher/(248) 514-9814

Attorneys for amicus curiae Ann Arbor Medical Cannabis Guild, Inc.: Dennis M. Hayes/(734) 995-4646, David P. Cahill/(734) 769-0753, Rosemary Gordon Pánuco/(520) 797-6928

Trial Court: Kent County Circuit Court

In this Michigan Medical Marihuana Act case, the defendant, a registered primary caregiver for two qualifying patients, leased commercial space where he not only cultivated marihuana for his own patients, but also allowed others to grow marihuana. At issue is whether the MMMA permits qualifying patients and registered primary caregivers to possess and cultivate marihuana in a collective or cooperative. [Read more ...](#)

PEOPLE v WHITE (case no. 144387)

Prosecuting attorney: Jerrold E. Schrottenboer/(517) 788-4283

Attorney for defendant Kadeem Dennis White: Robert K. Gaecke, Jr./ (517) 787-6400

Trial Court: Jackson County Circuit Court

The defendant, who was arrested for murder and other felonies, invoked his right to remain silent during police questioning. The police officer then told the defendant that he was concerned that the gun used in the murder could be found and used to hurt another person; the defendant

responded that the homicide was an accident. At issue is whether that statement should be suppressed. [Read more ...](#)

PEOPLE v MITCHELL (case no. 144239)

Prosecuting attorney: David A. McCreedy/(313) 224-5777

Attorney for defendant Vaughn Mitchell: John F. Royal/(313) 962-3738

Trial Court: Wayne County Circuit Court

In a videotaped statement to the police, the defendant confessed to beating and robbing the victim, but denied shooting him. He contends that the confession should be suppressed, claiming that a police officer misled him about his right to counsel and that the officer only gave him *Miranda* warnings after the questioning started. [Read more ...](#)

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