Michigan Supreme Court
Lansing, Michigan

Syllabus

This syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader.

BAUSERMAN v UNEMPLOYMENT INSURANCE AGENCY

Docket No. 156389. Argued on application for leave to appeal October 10, 2018. Decided April 5, 2019.

Grant Bauserman, Karl Williams, and Teddy Broe, on behalf of themselves and all others similarly situated, brought an action in the Court of Claims against the Unemployment Insurance Agency, alleging that defendant had violated their due-process rights by depriving them of property without providing adequate notice and an opportunity to be heard and that defendant had also engaged in unlawful collection practices. Defendant had employed an automated fraud-detection system to determine that plaintiffs had received unemployment benefits for which they were not eligible, and then garnished plaintiffs' wages, benefits, and tax refunds to recover the amount of alleged overpayments, interest, and penalties that defendant had assessed. Plaintiffs each challenged the determinations and, while defendant's investigation of Williams's situation remained pending, defendant issued redeterminations with respect to Bauserman and Broe that cleared them of fraud. Defendant moved for summary disposition on a number of grounds, including that plaintiffs had failed to comply with the notice provision of MCL 600.6431(3) because they did not file their complaint within six months following the "happening of the event giving rise to the cause of action." The Court of Claims, CYNTHIA D. STEPHENS, J., denied defendant's motion, concluding that plaintiffs' claims accrued when they received defendant's redetermination notices that nullified its previous fraud findings and that plaintiffs' claims had been filed within six months of that event. The Court of Appeals, GADOLA, P.J., and METER and FORT HOOD, JJ., reversed, concluding that plaintiffs' claims accrued when they received the original notices alleging fraudulent conduct and explaining the effect that would have on their unemployment compensation. *Bauserman v Unemployment Ins Agency*, unpublished per curiam opinion of the Court of Appeals, issued July 18, 2017 (Docket No. 333181). Plaintiffs applied for leave to appeal in the Supreme Court, which ordered and heard oral argument on whether to grant the application or take other action. 501 Mich 1047 (2018).

In a unanimous opinion by Justice MARKMAN, the Supreme Court, in lieu of granting leave to appeal, *held*:

Under MCL 600.6431(3), the "happening of the event giving rise to the cause of action" for a claim seeking monetary relief is when the claim accrues, and a procedural-due-process claim seeking monetary relief accrues when the deprivation of life, liberty, or property has occurred. In the instant case, plaintiffs were deprived of their property when their tax refunds were seized or

their wages garnished. As a result, plaintiffs Bauserman and Broe timely filed their claims within six months following the deprivation of their property, while plaintiff Williams did not. Accordingly, the judgment was affirmed in part and reversed in part, and the case was remanded to the Court of Appeals for further proceedings.

1. MCL 600.6431, which establishes when and how a claim against a government agency may be initiated, provides in part that a claimant must file a notice of intention to file a claim or the claim itself within 6 months following the happening of the event giving rise to the cause of action. For purposes of this provision, dictionary definitions indicate that an event has given rise to a cause of action when it triggers a person's ability to obtain a remedy in court. MCL 600.5827 provides in part that a period of limitations generally runs from the time a claim accrues, which is at the time the wrong upon which a claim is based was done regardless of the time when damage results. With regard to claims seeking monetary relief, there is no meaningful distinction between the happening of the event giving rise to the cause of action in MCL 600.6431(3) and when such a claim accrues under MCL 600.5827.

2. Article 1, § 17 of the Michigan Constitution provides that no person shall be deprived of life, liberty, or property without due process of law. The Due Process Clause is violated only if there has been a deprivation of life, liberty, or property. If there is no such deprivation, no process is due and thus no harm has occurred. In other words, a plaintiff incurs no harm under the Due Process Clause until and unless the plaintiff incurs a deprivation of property. Thus, the actionable harm in a pre-deprivation due-process claim occurs when a plaintiff has been deprived of property and therefore such a claim accrues when a plaintiff has first incurred the deprivation of property.

3. The instant case was unlike the situation in *Frank v Linkner*, 500 Mich 133 (2017), which involved an action for member oppression within a limited liability company under MCL 450.4515. In *Frank*, the Supreme Court concluded that the plaintiffs' claim accrued before they incurred any calculable financial injury, reasoning that because the actionable harm for a member-oppression claim under MCL 450.4515 consists of actions taken by the managers that substantially interfere with the interests of the member as a member, and because monetary damages constitute just one of many potential remedies for that harm, an action for member oppression does not necessarily accrue when a plaintiff incurs a calculable financial injury; instead, it accrues when a plaintiff incurs the actionable harm under MCL 450.4515, i.e., when defendants' actions allegedly interfered with the interests of a plaintiff as a member, making the plaintiff eligible to receive some form of relief under MCL 450.4515(1). Unlike a claim for member oppression under MCL 450.4515, in which the harm itself can occur before incurring a calculable financial injury, no harm for a violation of due process can occur without or before a deprivation of property. Accordingly, the Court of Appeals erred by holding that plaintiffs' due-process claims seeking monetary relief accrued when plaintiffs were deprived of process; rather, these claims accrued only when plaintiffs were deprived of property. Because the accrual under MCL 600.5827 of a due-process claim seeking monetary relief gave rise to a cause of action for purposes of MCL 600.6431(3), the six-month period from MCL 600.6431(3) was triggered when plaintiffs were deprived of property.

4. Plaintiffs were not deprived of property either when the initial redetermination notices were sent informing plaintiffs of liability or when plaintiffs received defendant's notices of an intention to intercept their tax refunds or wages. These notices merely apprised plaintiffs of the

amount owed to defendant and the actions that would be undertaken if payment was not made; they did not actually seize plaintiffs' property. With regard to plaintiff Bauserman, he first incurred a deprivation of property on June 6, 2015, when defendant intercepted his federal and state income tax refunds. Accordingly, his September 9, 2015 complaint was timely filed within six months following the happening of the event giving rise to the cause of action under MCL 600.6431(3). Similarly, plaintiff Broe first incurred a deprivation of property when his tax refunds were seized in May 2015, and therefore his claim against defendant was also timely filed under MCL 600.6431(3). However, plaintiff Williams first incurred a deprivation of property when his wages were garnished on May 16, 2014, and his claim was not filed within six months of that deprivation. Therefore, plaintiffs Bauserman and Broe timely filed their claims, while plaintiff Williams did not.

Affirmed in part, reversed in part, and remanded to the Court of Appeals for further proceedings.

Chief Justice MCCORMACK, concurring, agreed that if the six-month notice period in MCL 600.6431(3) governed plaintiffs' claims, it started to run when the state deprived plaintiffs of a property interest without due process. She wrote separately, however, because she was not convinced that the rule from *McCahan v Brennan*, 492 Mich 730 (2012), and *Rowland v Washtenaw Co Rd Comm*, 477 Mich 197 (2007), which requires strict compliance with the notice requirements for statutorily created claims, applied to due-process claims in particular or to constitutional tort claims in general. However, because Williams conceded that the six-month notice period in MCL 600.6431(3) for property damage or personal injury applied to his claims, Chief Justice MCCORMACK agreed with the majority that Williams's claim was untimely because he failed to file notice within six months of the May 2014 garnishment, when he first suffered a deprivation of property.

Justice CAVANAGH did not participate in the disposition of this case because the Court considered it before she assumed office.

Michigan Supreme Court
Lansing, Michigan

OPINION

FILED April 5, 2019

S T A T E O F M I C H I G A N

SUPREME COURT

GRANT BAUSERMAN, KARL WILLIAMS, and TEDDY BROE, on Behalf of Themselves and All Others Similarly Situated,

Plaintiffs-Appellants,

v No. 156389

UNEMPLOYMENT INSURANCE AGENCY,

Defendant-Appellee.

BEFORE THE ENTIRE BENCH (except CAVANAGH, J.)

MARKMAN, J.

This case involves a narrow, but practically consequential, issue: whether plaintiffs gave timely notice of their due-process claims to defendant, the Michigan Unemployment Insurance Agency (the Agency), and therefore are entitled to consideration of the merits of those claims. More specifically, the issue concerns whether plaintiffs filed notices of intention to file their claims or the claims themselves "within 6 months following the

happening of the event giving rise to the cause of action." MCL 600.6431(3). We hold that the "happening of the event giving rise to the cause of action" for a claim seeking monetary relief is when the claim accrues, and a procedural-due-process claim seeking monetary relief accrues when the deprivation of life, liberty, or property has occurred. In the instant case, plaintiffs were deprived of their property when their tax refunds were seized or their wages garnished. As a result, plaintiffs Bauserman and Broe timely filed their claims within six months following the deprivation of their property, while plaintiff Williams did not. Accordingly, we affirm in part and reverse in part the judgment of the Court of Appeals and remand to that court for further proceedings consistent with this opinion.

I. FACTS AND HISTORY

Plaintiffs are former recipients of unemployment compensation benefits who allege that the Agency unlawfully seized their property without affording due process of law. Plaintiff Bauserman received unemployment compensation from October 2013 through March 2014. In October 2014, the Agency sent Bauserman and his former employer, Eaton Aeroquip (Eaton), a questionnaire regarding suspected unreported earnings that Bauserman received while he was receiving unemployment compensation. Both Bauserman and Eaton responded that Bauserman had not worked for Eaton at the time. On December 3, 2014, the Agency sent Bauserman two notices of redetermination, one claiming that he had received unemployment compensation for which he was ineligible and the other claiming that he had intentionally misled the Agency or concealed information from it to obtain compensation for which he was not eligible. As a result, the Agency informed Bauserman

that he owed $19,910 in overpayments, penalties, and interest. The next day, Bauserman submitted an online appeal through the Agency's website regarding its assertion that he had committed fraud, but did not submit a separate appeal regarding the Agency's determination that he had received compensation for which he was not eligible.

From January 2015 through June 2015, the Agency sent Bauserman multiple notices stating the amount he owed to the Agency, informing him of missed payments on his debt, and raising the possibility that his wages would be garnished or his tax refunds seized. One of these communications consisted of a "notice of intent to reduce/withhold federal income tax refund," which warned Bauserman that "if you do not pay the amount shown or take other action described below within 60 days of the mail date on this form, the [Agency] will submit this benefit overpayment balance (restitution) to . . . the United States Department of Treasury . . . [which] will reduce or withhold any federal income tax refund you may be due and will instead forward that amount to the [Agency]." Around this same time, Bauserman sent multiple letters to the Agency attempting to explain the situation, two of which included an attached letter from Eaton explaining that Bauserman received one payment in 2014 for work performed in 2013 but was not employed by Eaton during the time he was receiving unemployment compensation. Finally, on June 16, 2015, the Agency intercepted Bauserman's state and federal income tax refunds.

On September 9, 2015, Bauserman filed a putative class action against the Agency in the Court of Claims, alleging that the Agency had deprived him of his property without providing due process of law. More specifically, he alleged that "Michigan's unemployment fraud detection, collection, and seizure practices fail to comply with minimum due process requirements." On September 30, 2015, the Agency issued two new

notices of redetermination, rendering its December 3, 2014 redeterminations "null and void," and the Agency has since returned all monies seized from Bauserman.

On October 19, 2015, Bauserman filed an amended complaint, which added Teddy Broe and Karl Williams as named plaintiffs to the class action. Broe had received unemployment compensation from April 2013 to August 2013, and he had initially been determined eligible on the basis that he had been laid off by his employer, Fifth Third Bank (Fifth Third). However, Fifth Third challenged that determination, alleging that Broe voluntarily terminated his employment to attend school. The Agency then sent requests for information to Broe regarding his eligibility for compensation, and on July 15, 2014, it sent two notices of redetermination to Broe, the first claiming that he had received compensation for which he was ineligible because his termination of employment at Fifth Third "was voluntary and not attributable to the employer," and the second claiming that he had intentionally misled the agency or concealed information from it to obtain compensation that he was not eligible to receive. As a result, the Agency informed Broe that he owed $8,302 in overpayments, penalties, and interest.

From August 2014 through April 2015, the Agency sent Broe multiple notices stating the amount owed to the Agency, informing him of missed payments on the debt and raising the possibility that his wages would be garnished or his tax refunds seized. Specifically, on September 2, 2014, the Agency sent Broe a "notice of intent to reduce/withhold federal income tax refund" that was materially identical to the notice provided to Bauserman. In April 2015, Broe sent the Agency a letter appealing its redeterminations and claiming that he had not received the Agency's previous communications because they had been sent to him through his online account with the

Agency, which he no longer accessed because he was reemployed and no longer seeking unemployment compensation. The Agency denied the appeal as untimely and, in May 2015, intercepted Broe's state and federal tax refunds. On November 4, 2015, the Agency issued two notices of redetermination, reversing its July 15, 2014 redeterminations that Broe was ineligible for compensation and had committed fraud. The Agency has since returned all monies seized from Broe.

Williams started working at Wingfoot Commercial Tire System in May 2011. When his employment with Wingfoot began, Williams was receiving unemployment compensation from a previous employer. Williams alleges that he advised the Agency that he was now receiving wages from Wingfoot, yet his unemployment compensation had not been altered; Williams believed that he was still entitled to unemployment compensation because his wages from Wingfoot were less than 1½ times his weekly compensation. See MCL 421.48(1). The Agency sent Williams a request to provide information regarding his employment with Wingfoot. On June 22, 2012, the Agency issued redeterminations that (1) terminated Williams's receipt of future unemployment compensation, (2) asserted that he had already received compensation for which he was ineligible due to his employment with Wingfoot, and (3) alleged that he had intentionally misled the Agency or concealed information from it to obtain compensation for which he was not eligible.

On October 29, 2013, the Agency sent Williams a "notice of garnishment" stating that, if the amount owed was not provided to the Agency within 30 days, his "employer [would] be required to deduct and send to [the Agency] up to 25% of [his] disposable earnings each pay period until the debt is paid in full." Williams's wages were first

garnished, at the latest, on May 16, 2014,[1] and on May 27, 2014, the Agency sent Williams a "notice of intent to reduce/withhold federal income tax refund" that was materially identical to the notices provided to Bauserman and Broe. Williams sent a letter appealing the Agency's redeterminations on May 22, 2014. The Agency denied Williams's appeal as untimely, as did an administrative law judge. Finally, on February 19, 2015, the Agency seized Williams's federal income tax refund and continues to collect his debt by this means.

Plaintiffs' amended complaint alleges that the Agency violated the class members' due-process rights by (1) depriving them of property without providing adequate notice and an opportunity to be heard and (2) engaging in unlawful collection practices by, among other things: (a) imposing a higher level of interest than permitted, (b) collecting interest on penalties, and (c) employing wage garnishments. The Agency moved for summary disposition on a number of grounds, including that plaintiffs failed to comply with the notice provision of MCL 600.6431(3) because they had not filed the complaint within six months following the "happening of the event giving rise to the cause of action." The Court of Claims denied the Agency's motion, concluding that plaintiffs' claims accrued when they received the Agency's redetermination notices that rendered its previous fraud findings null and void and that plaintiffs' claims had been filed within six months of that event.[2] The Court of Appeals reversed, concluding that plaintiffs' claims accrued when

[1] It is not clear from the record whether Williams's wages had been garnished at any time before May 16, 2014. However, even if his wages were garnished before this time, this would not affect the determination that Williams's claim was not timely filed.

[2] The Court of Claims also held that the return of the funds seized from Bauserman and Broe did not render their claims moot and that plaintiffs were exempt from the requirement that they exhaust their administrative remedies because they raised a facial constitutional

they received the *original* redetermination notices alleging fraudulent conduct and explaining the effect that would have on their unemployment compensation. *Bauserman v Unemployment Ins Agency*, unpublished per curiam opinion of the Court of Appeals, issued July 18, 2017 (Docket No. 333181), p 9.[3] The Court of Appeals reasoned that the hallmark of a due-process claim is inadequate process and therefore that was the "actionable harm" for the purposes of accrual; the subsequent seizing of plaintiffs' property merely reflected the damage resulting from that deprivation and did not establish the date of accrual. *Id*. at 10. Plaintiffs thereafter filed an application for leave to appeal in this Court, and we scheduled oral argument on the application, instructing the parties to address

> whether "the happening of the event giving rise to [appellants'] cause of action" for the deprivation of property without due process occurred when the appellee issued its allegedly wrongful notice of redetermination, or when the appellee actually seized the appellants' property. MCL 600.6431(3); MCL 600.5827; cf. *Frank v Linkner*, 500 Mich 133, 149-153 (2017). [*Bauserman v Unemployment Ins Agency*, 501 Mich 1047 (2018).]

II. STANDARD OF REVIEW

MCL 600.6431 "establishes conditions precedent for avoiding" governmental immunity. *Fairley v Dep't of Corrections*, 497 Mich 290, 297; 871 NW2d 129 (2015). In other words, if a plaintiff fails to comply with MCL 600.6431, his or her claims against a governmental agency are barred by governmental immunity. *Id*. This Court reviews de

---

challenge to defendant's policies and procedures. Because the Agency has not challenged these holdings in either the Court of Appeals or this Court, we decline to address them.

[3] In the Court of Appeals, the Agency also argued that even if plaintiffs' claims were timely filed, they did not raise viable constitutional tort claims and therefore the claims were barred by governmental immunity on that basis. Because the Court of Appeals found the timeliness issue dispositive, it declined to address this alternative argument.

novo a lower court's decision to grant summary disposition under MCR 2.116(C)(7) on the basis of governmental immunity. *Yono v Dep't of Transp*, 499 Mich 636, 645; 885 NW2d 445 (2016). "When a motion is filed under this subrule, the court must consider not only the pleadings, but also any affidavits, depositions, admissions or documentary evidence that is filed or submitted by the parties." *Kerbersky v Northern Mich Univ*, 458 Mich 525, 529; 582 NW2d 828 (1996), citing MCR 2.116(G)(5). "Further, whether MCL 600.6431 requires dismissal of a plaintiff's claim for failure to provide the designated notice raises questions of statutory interpretation, which we . . . review de novo." *McCahan v Brennan*, 492 Mich 730, 735-736; 822 NW2d 747 (2012) (citation omitted).

III. ANALYSIS

A. MCL 600.6431

MCL 600.6431 establishes when and how a claim against a government agency may be initiated:

> (1) No claim may be maintained against the state unless the claimant, within 1 year after such claim has accrued, files in the office of the clerk of the court of claims either a written claim or a written notice of intention to file a claim against the state or any of its departments, commissions, boards, institutions, arms or agencies, stating the time when and the place where such claim arose and in detail the nature of the same and of the items of damage alleged or claimed to have been sustained, which claim or notice shall be signed and verified by the claimant before an officer authorized to administer oaths.
>
> * * *
>
> (3) In all actions for property damage or personal injuries, claimant shall file with the clerk of the court of claims a notice of intention to file a claim or the claim itself *within 6 months following the happening of the event giving rise to the cause of action*. [Emphasis added.]

In *McCahan*, 492 Mich at 739, we explained:

> Subsection (1) sets forth the general notice required for a party to bring a lawsuit against the state, while subsection (3) sets forth a special timing requirement applicable to a particular subset of those cases—those involving property damage or personal injury. Subsection (3) merely reduces the otherwise applicable one-year deadline to six months. In this regard, subsection (3) is best understood as a subset of the general rules articulated in subsection (1), and those general rules and requirements articulated in subsection (1)—including the bar-to-claims language—continue to apply to *all* claims brought against the state unless modified by the later-stated specific rules.

The parties agree that plaintiffs' causes of action here are for "property damage or personal injuries,"[4] and therefore plaintiffs' claims are barred unless they filed their complaint or notice of intent to sue "within 6 months following the happening of the event giving rise to the cause of action." MCL 600.6431(3); see also *McCahan*, 492 Mich at 745.[5]

---

[4] Because the issue is uncontested, we presume, without deciding, that a claim alleging a violation of due process constitutes an "action[] for property damage" that is properly analyzed under MCL 600.6431(3). Compare *Sanderson v Unemployment Ins Agency*, unpublished per curiam opinion of the Court of Appeals, issued August 23, 2018 (Docket No. 338983), p 3 (holding that a due-process claim based on the deprivation of property constitutes an "action[] for property damage" because "it involves a harm to a person's lawful, unrestricted use of property"), with *id*. at 3 (SHAPIRO, J., concurring) (arguing that such a claim does not constitute an "action[] for property damage" because "plaintiffs do not seek to recover for *damage* to property, they simply seek the return of the property").

[5] While *McCahan* involved a nonconstitutional claim against the state, the Court of Appeals has held that *McCahan* applies equally to constitutional claims. *Rusha v Dep't of Corrections*, 307 Mich App 300, 307-314; 859 NW2d 735 (2014). However, *Rusha* recognized an exception to "strict enforcement" of a notice period where one raises a constitutional claim and enforcement of that notice period would "effectively divest plaintiffs of the access to the courts intended by the grant of the substantive right." *Id*. at 311 (quotation marks and citation omitted). Recently, the Court of Appeals applied this "exception" on the basis of the allegedly "harsh and unreasonable consequences" that would result from enforcement of the notice period in that particular case. *Mays v*

The question presented concerns how to determine the "event giving rise to the cause of action" for the purpose of triggering the six-month notice period in MCL 600.6431(3). A "cause of action" is defined as "[a] group of operative facts giving rise to one or more bases for suing; a factual situation that entitles one person to obtain a remedy in court from another person; CLAIM." *Black's Law Dictionary* (10th ed).[6] "Rise" is defined, in relevant part, as "origin, source or beginning," and "give rise to" is defined as "to originate; produce; cause[.]" *Random House Dictionary of the English Language* (1969); see also *People v McKinley*, 496 Mich 410, 419; 852 NW2d 770 (2014) (defining "gives rise to" as "to produce or cause"); *Merriam-Webster's Collegiate Dictionary* (11th ed) (defining "rise" as "BEGINNING, ORIGIN"). Put together, an event has "giv[en] rise to the cause of action" when that event "origin[ates]" a "basis for suing" and "entitle[s] one person to obtain a remedy in court." In other words, an "event giv[es] rise to a cause of action" when it triggers a person's ability to obtain a remedy in court.[7]

Governor, 323 Mich App 1, 30-35; 916 NW2d 227 (2018), application for lv to appeal pending. Plaintiffs do not argue that *McCahan* is inapplicable to their claims, nor do they argue that it would be "harsh and unreasonable" to apply the notice period to them in this case. Accordingly, for the purposes of this case, failure to comply with MCL 600.6431(3) would bar plaintiffs' claims against the Agency, and we do not express any opinion regarding whether *Rusha* and *Mays* were decided correctly.

[6] "Claim" is relevantly defined as "[t]he assertion of an existing right; any right to payment or to an equitable remedy, even if contingent or provisional" and "a demand for money, property, or a legal remedy to which one asserts a right; esp., the part of a complaint in a civil action specifying what relief the plaintiff asks for." *Black's Law Dictionary* (10th ed).

[7] The Agency argues that the phrase "giving rise to the cause of action" suggests that the cause of action has not yet fully arisen. We respectfully disagree. Rather, a plaintiff's "cause of action," i.e., a factual situation that entitles one to obtain a remedy in court, does not "begin or originate" until that cause of action actually arises. The Agency appears to

With regard to claims seeking monetary relief, we can identify no meaningful distinction between "the happening of the event giving rise to the cause of action" in MCL 600.6431(3) and when a claim accrues. MCL 600.5827 provides that a "claim accrues at the time the wrong upon which the claim is based was done regardless of the time when damage results."[8] We have explained that the date of the "wrong" referred to in MCL 600.5827 is " 'the date on which the defendant's breach harmed the plaintiff, as opposed to the date on which defendant breached his duty.' " *Frank v Linkner*, 500 Mich 133, 147; 894 NW2d 574 (2017) (citation omitted). "The relevant 'harms' for that purpose are the actionable harms alleged in a plaintiff's cause of action." *Id*. at 150.

---

argue that the "event giving rise to the cause of action" may occur before the cause of action has fully arisen because an action can set into motion a series of events that eventually provide a plaintiff a cause of action. On this reasoning, any event that eventually leads to a cause of action might "giv[e] rise to the cause of action." To take this case as an example, plaintiffs' initial receipt of unemployment compensation may be argued to have set into motion the series of events that eventually led to their due-process claims. However, such receipt of compensation could hardly be said to have "originated" plaintiffs' causes of action because they could not have obtained a remedy at that juncture. Accordingly, we disagree with the Agency that the event "giving rise to the cause of action" may occur before a plaintiff can obtain a legal remedy in court.

[8] Because the issue is uncontested, we presume, without deciding, that the definition of "accrual" in MCL 600.5827 applies equivalently to MCL 600.6431. But even if we were to apply the common-law definition of "accrual" in this context, this would not alter our conclusion that the "happening of the event giving rise to [plaintiffs'] cause[s] of action" for monetary relief occurred when they were deprived of property. Under the common law, a claim generally accrues "when all of the elements of the cause of action have occurred and can be alleged in a proper complaint." *Connelly v Paul Ruddy's Equip Repair & Serv Co*, 388 Mich 146, 150; 200 NW2d 70 (1972). Accord *Gebhardt v O'Rourke*, 444 Mich 535, 542; 510 NW2d 900 (1994); *Parish v B F Goodrich Co*, 395 Mich 271, 284; 235 NW2d 570 (1975). Here, plaintiffs could assert their due-process claims only when the alleged deprivations had occurred. Thus, it is immaterial for purposes of the instant case whether we apply the definition of "accrual" in § 5827 or from the common law.

We believe that the "actionable harm" we discussed in *Frank* is the "event giving rise to [a] cause of action" seeking monetary relief under MCL 600.6431(3). The harm that enables a plaintiff to bring an action for monetary relief (i.e., the "actionable harm") necessarily "originates" such a cause of action, and is, thus, "the event giving rise to the cause of action."[9] As a result, we find that there is no meaningful distinction between "the happening of the event giving rise to [a] cause of action" seeking monetary relief under MCL 600.6431(3) and when such a claim accrues under MCL 600.5827.[10]

---

[9] There might be some circumstances in which an event would "give rise to the cause of action" *before* a plaintiff incurs harm. In particular, a plaintiff can sometimes obtain prospective relief, such as declaratory relief under MCR 2.605 or injunctive relief under MCR 3.310, even if no actual harm has yet occurred. *Shavers v Attorney General*, 402 Mich 554, 589; 267 NW2d 72 (1978) ("[A] court is not precluded from reaching issues [in a declaratory judgment action] before actual injuries or losses have occurred."); *Taxpayers Allied for Constitutional Taxation v Wayne Co*, 450 Mich 119, 127; 537 NW2d 596 (1995) ("Because a suit for injunctive relief may seek to prevent a future wrong, the cause of action necessarily arises before the wrong occurs."). However, plaintiffs have waived their claims for injunctive and equitable relief, see Appellants' Supplemental Brief at 6 ("The appellants' cause of action is an action for damages based on the deprivation of property without due process."), and none of the parties argues that some event could "give rise" to a claim for prospective relief prior to an event that "gives rise" to monetary relief. Therefore, we need not decide in this case what effect, if any, the availability of a prospective remedy has upon the determination of the "happening of the event giving rise to the cause of action" under MCL 600.6431(3).

[10] In so holding, we recognize that the Legislature used the term "accrue" in Subsection (1), MCL 600.6431(1) ("No claim may be maintained against the state unless the claimant, within 1 year after such claim has accrued . . . ."), but not in Subsection (3), which instead contains the phrase "the happening of the event giving rise to the cause of action," MCL 600.6431(3). Ordinarily, we assign significance to the Legislature's choice of different words. See, e.g., *South Dearborn Environmental Improvement Ass'n, Inc v Dep't of Environmental Quality*, 502 Mich 349, 369; 917 NW2d 603 (2018). Thus, this difference in language suggests that the phrase "happening of the event giving rise to the cause of action" may have a different meaning than "accrue" under Subsection (1). However, the maxim that a difference in language signifies a difference in meaning is a *general* rule; it

B. ACCRUAL OF DUE-PROCESS CLAIM

As in *Frank*, in this case we are called upon to "determine the date on which plaintiffs first incurred the harm they assert" by looking to the "actionable harms" alleged in plaintiffs' complaint. *Frank*, 500 Mich at 150. Plaintiffs allege that the Agency violated their due-process rights under the Michigan Constitution when it (1) seized their property without reasonable notice and an opportunity to be heard and (2) engaged in unlawful collection practices. Thus, the question is at what point plaintiffs first incurred or suffered the "actionable harm" for a claim alleging a violation of predeprivation due process.[11]

---

may not apply in every situation. See 2A Singer & Singer, Sutherland Statutory Construction (7th ed), § 46:6, p 261 ("Different words used in the same, or a similar, statute are assigned different meanings *whenever possible*.") (emphasis added); Black, *Handbook on the Construction and Interpretation of the Laws* (St. Paul: West Publishing Co, 1911), p 145 ("Conversely, where different language is used in the same connection, in different parts of the statute, *it is presumed* that the legislature intended it to have a different meaning and effect.") (emphasis added). Because the parties agree that plaintiffs' claims are governed by MCL 600.6431(3) rather than MCL 600.6431(1), we need not resolve in this case how to define the term "accrual" in the context of MCL 600.6431(1) or how that definition relates to "the happening of the event giving rise to the cause of action" under MCL 600.6431(3).

[11] The United States Supreme Court has recognized that "[i]n some circumstances . . . a statutory provision for a postdeprivation hearing, or a common-law tort remedy for erroneous deprivation, satisfies due process." *Zinermon v Burch*, 494 US 113, 128; 110 S Ct 975; 108 L Ed 2d 100 (1990). However, plaintiffs aver in their complaint that "[p]ost-deprivation remedies are insufficient to protect claimants' rights to due process because even a temporary deprivation of wages, unemployment benefits, [or] tax refunds creates a substantial burden on claimants who rely upon such income to live and support themselves and their families." Accordingly, plaintiffs allege that postdeprivation process is necessarily insufficient in this case and thus allege further a violation of due process in the procedures employed by the Agency *before* any deprivation occurred.

The Michigan Constitution provides:

> No person shall . . . be deprived of life, liberty or property, without due process of law. [Const 1963, art 1, § 17.][12]

The Due Process Clause precludes the state from (1) depriving one of life, liberty, or property (2) without due process of law. Clearly, the clause is violated only if there has been a deprivation of life, liberty, or property. *Bonner v City of Brighton*, 495 Mich 209, 225-226; 848 NW2d 380 (2014). If there is no such deprivation, no process is "due" and thus no harm has occurred. *Williams v Hofley Mfg Co*, 430 Mich 603, 610; 424 NW2d 278 (1988) ("It is well established . . . that the requirements of procedural due process are triggered only by the implication of protected property or liberty interests. . . . It is only when a protected interest has been found that we may proceed to determine what process is due."); see also *Fuentes v Shevin*, 407 US 67, 84; 92 S Ct 1983; 32 L Ed 2d 556 (1972) ("The right to a prior hearing, of course, attaches only to the deprivation of an interest encompassed within the Fourteenth Amendment's protection."). In other words, a plaintiff incurs no harm under the Due Process Clause until and unless he or she incurs a deprivation of property. Thus, the "actionable harm" in a pre-deprivation due-process claim occurs

---

[12] Similarly, the United States Constitution provides, "nor shall any state deprive any person of life, liberty, or property, without due process of law[.]" US Const, Am XIV. Plaintiffs solely allege that the Agency violated Michigan's Due Process Clause. Accordingly, this Court is not bound by federal precedent interpreting the Due Process Clause of the United States Constitution. See *People v Bullock*, 440 Mich 15, 27; 485 NW2d 866 (1992) ("This Court alone is the ultimate authority with regard to meaning and application of Michigan law.") However, because of the textual similarities between the state and federal Due Process Clauses, we may nonetheless find persuasive United States Supreme Court cases interpreting the federal Due Process Clause in this context. See *People v Sierb*, 456 Mich 519, 523-524 & n 10; 581 NW2d 219 (1998).

when a plaintiff has been deprived of property, and therefore such a claim "accrues" when a plaintiff has first incurred the deprivation of property.

The Agency argues that, under *Carey v Piphus*, 435 US 247, 266; 98 S Ct 1042; 55 L Ed 2d 252 (1978), the lack of process itself constitutes the "actionable harm" and that the deprivation of property is merely a financial consequence or manifestation of that harm. The Agency further notes that the United States Supreme Court held in *Carey* that one can recover nominal damages for the deprivation of due process even if he or she "did not suffer any other actual injury," *id*., and reasons from this that it is the deprivation of process that constitutes the "actionable harm" for a due-process claim, not the deprivation of property.

However, we believe that the Agency misconstrues *Carey*. The issue in *Carey* was whether students who were suspended from school without due process could recover damages under 42 USC 1983.[13] *Id*. at 248. The United States Supreme Court previously had held that students possess property and liberty interests in continued education, see *Goss v Lopez*, 419 US 565, 576; 95 S Ct 729; 42 L Ed 2d 725 (1975), and that there was no dispute that the *Carey* plaintiffs had been deprived of that "property" without due process. The question then was whether, if the plaintiffs' suspensions were justified despite the lack of due process, they could recover damages. *Carey*, 435 US at 266. In other words, could the *Carey* plaintiffs recover damages if they still would have been suspended had they received due process? The Court held:

[13] 42 USC 1983 provides a cause of action "to redress deprivations of civil rights by persons acting 'under color of any [state] statute, ordinance, regulation, custom, or usage.' " *Hafer v Melo*, 502 US 21, 27; 112 S Ct 358; 116 L Ed 2d 301 (1991), quoting 42 USC 1983 (alteration in original).

> Because the right to procedural due process is "absolute" in the sense that it does not depend upon the merits of a claimant's substantive assertions, and because of the importance to organized society that procedural due process be observed, we believe that the denial of procedural due process should be actionable for nominal damages without proof of actual injury. We therefore hold that if, upon remand, the District Court determines that respondents' suspensions were justified, respondents nevertheless will be entitled to recover nominal damages not to exceed one dollar from petitioners. [*Id*. at 266-267 (citation omitted).]

Thus, the Court concluded that even if the plaintiffs would have been suspended had they received due process, they could recover nominal damages based on the denial of due process. However, this does not mean that a person can incur "harm" under the Due Process Clause absent a deprivation of property. While a plaintiff can recover damages under the Due Process Clause based solely on the deprivation of due process, no "harm" entitling one to such damages occurs without-- or before-- a deprivation of property. See *Bd of Regents of State Colleges v Roth*, 408 US 564, 576; 92 S Ct 2701; 33 L Ed 2d 548 (1972) ("The Fourteenth Amendment's procedural protection of property is a safeguard of the security of interests that a person has already acquired in specific benefits.").

The Agency also argues that this Court's recent decision in *Frank v Linkner* supports its argument that plaintiffs' claims accrued upon the denial of process, rather than upon the deprivation of property. In *Frank*, former employees of defendant ePrize brought an action for member oppression within a limited liability company (LLC) under MCL 450.4515, which provides a cause of action for members of an LLC in which the "acts of the managers or members in control of the [LLC] are illegal or fraudulent or constitute willfully unfair and oppressive conduct toward the [LLC] or the member." " '[W]illfully unfair and oppressive conduct' means a continuing course of conduct or a significant action or series of actions that substantially interferes with the interests of the member as a member." MCL

450.4515(2). This Court concluded that the plaintiffs' claim accrued before they incurred any calculable financial injury, reasoning:

> [T]he actionable harm for a member-oppression claim under MCL 450.4515 consists of actions taken by the managers that "substantially interfere with the interests of the member as a member," and monetary damages constitute just one of many potential remedies for that harm . . . . Accordingly . . . an action for LLC member oppression does not necessarily accrue when a plaintiff incurs a calculable financial injury. Instead, it accrues when a plaintiff incurs the actionable harm under MCL 450.4515, i.e., when defendants' actions allegedly interfered with the interests of a plaintiff as a member, making the plaintiff eligible to receive some form of relief under MCL 450.4515(1). [*Frank*, 500 Mich at 152-153.]

In other words, a calculable financial injury was one potential consequence of the "actionable harm" in an LLC member-oppression claim, but was not in and of itself the "actionable harm." Rather, *that* harm occurred when "defendants' actions allegedly interfered with the interests of a plaintiff as a member, making the plaintiff eligible to receive some form of relief under MCL 450.4515(1)." *Id*.

The Agency analogizes this case to *Frank*, arguing that the deprivation of property is comparable to the calculable financial injury in *Frank*, i.e., that the deprivation of property is merely the result of the deprivation of process, which constitutes the "actionable harm" for a claim alleging a violation of due process. However, unlike a claim for LLC member oppression under MCL 450.4515-- in which the harm itself can occur before incurring a calculable financial injury-- no harm for a violation of due process can occur without or before a deprivation of property. *Bonner*, 495 Mich at 225-226; *Williams*, 430 Mich at 610. Indeed, absent such a deprivation, it would often be impossible to determine whether sufficient process had been provided to a person, as the state could provide additional process before the actual deprivation or elect not to deprive that person of

property at all, in which case no harm would occur. Thus, while the "actionable harm" in *Frank* occurred independently from the calculable financial injury, the "actionable harm" in a due-process claim is specifically triggered by a deprivation of property.

Accordingly, the Court of Appeals erred by holding that plaintiffs' due-process claims seeking monetary relief accrued when plaintiffs were deprived of process. Rather, these claims accrued only when they were deprived of property, as they incurred no harm before that deprivation. Because the accrual under MCL 600.5827 of a due-process claim seeking monetary relief "giv[es] rise to [a] cause of action" for purposes of MCL 600.6431(3), the six-month period from MCL 600.6431(3) was triggered when plaintiffs were deprived of property.

C. APPLICATION

Plaintiffs allege that they were first deprived of property when their tax refunds were seized or their wages garnished. The Agency does not dispute that the seizure of tax refunds and garnishment of wages constitute deprivations of property, but argues that plaintiffs were *first* deprived of property either when the initial redetermination notices were sent informing plaintiffs of liability or, at the latest, when plaintiffs received the Agency's notices of an intention to intercept their tax refunds or wages.[14] However, the Agency provides no support for its argument that either the redetermination notices or the

[14] The Agency does not argue that plaintiffs possessed a property interest in the continued receipt of future unemployment compensation and therefore we decline to reach that issue. Even assuming that one could have a property interest in the continued receipt of future unemployment compensation, Bauserman and Broe were not seeking additional compensation when the Agency's redeterminations were issued. Accordingly, they were not deprived of any property until their tax refunds were seized.

notices of intent actually *deprived* plaintiffs of their property, rather than merely notifying them of the Agency's future intent to take their property. The Agency's notices of redetermination merely apprised plaintiffs of the amount owed to the Agency; these did not actually seize plaintiffs' property. See *Jones v Clark Co*, 666 F Appx 483, 486 (CA 6, 2016) ("[Plaintiff] does not have a property interest in not being billed. . . . An erroneously high bill from the government, without more, does not deprive the bill's recipient of a protected property interest[.]").[15] Similarly, the notices of intent advised plaintiffs of what the Agency *will* (at some future time) undertake if a payment is not made, i.e., that a tax refund *will* be seized or that wages *will* be garnished, but again these did not actually deprive plaintiffs of their property.[16] See *Millar v Clark Construction Auth*, 501 Mich 233,

---

[15] For example, Bauserman's "notice of redetermination" regarding alleged fraud provided:

> Your actions indicate you intentionally misled and/or concealed Information to obtain benefits you were not entitled to receive.
>
> Benefits will be terminated on any claims active on December 28, 2013.
>
> You are disqualified for benefits under MES Act, Sec. 62(b). Restitution is due under MES Act, Sec. 62(a). The wages used to establish your claim are cancelled and no further benefits will be paid based on those wages. In addition, you are required to pay the penalty assessed based on this determination under MES Act, Sec. 54(b). . . .
>
> * * *
>
> If you disagree with this redetermination, refer to Appeal Rights on the reverse side of this form.

[16] The "notice[s] of intent to reduce/withhold federal income tax refund" provided:

> If you do not pay the amount shown or take other action described below within 60 days of the mail date on this form, the [Agency] *will* submit this

239; 912 NW2d 521 (2018) ("At the time each letter was written, the plaintiff had no actionable WPA claim because no allegedly discriminatory action had occurred; the defendants *intended* to curtail the plaintiff's employment responsibilities, but had not taken any action to implement that intent."). Absent any indication that the Agency's notifications contemporaneously impaired plaintiffs' property interests, we cannot conclude that such notices triggered the "actionable harm" for a claim alleging a violation of due process.[17]

With regard to plaintiff Bauserman, he first incurred a deprivation of property on June 6, 2015, when the Agency intercepted his federal and state income tax refunds. Accordingly, his September 9, 2015 complaint was timely filed "within 6 months following the happening of the event giving rise to the cause of action." MCL 600.6431(3). Similarly, plaintiff Broe first incurred a deprivation of property when his tax refunds were seized in May 2015, and therefore his claim against the Agency was also timely filed under

---

> benefit overpayment balance (restitution) to . . . the United States Department of Treasury . . . [which] *will* reduce or withhold any federal income tax refund you may be due and will instead forward that amount to the [Agency.] [Emphasis added.]

[17] This Court has previously held that it "is beyond dispute that a money judgment rendered in . . . litigation against the defendant would deprive it of property." *Williams*, 430 Mich at 611. Accordingly, we do not hereby imply that the "actionable harm" in a due-process claim can *only* occur when collection proceedings begin. However, merely expressing a *future* intent to deprive one of property is an insufficient triggering event. See *Jones*, 666 F Appx at 486; *Millar*, 501 Mich at 239. Because the notices at issue only reflect a future intent to seize property, and because the Agency has offered no persuasive argument that the notices *actually* deprived plaintiffs of their property, these did not trigger the six-month notice period under MCL 600.6431(3).

MCL 600.6431(3).[18] However, plaintiff Williams first incurred a deprivation of property when his wages were garnished on May 16, 2014, and his claim was not filed within six months of that deprivation.[19] Thus, plaintiffs Bauserman and Broe timely filed their claims, while plaintiff Williams did not.

IV. CONCLUSION

It is yet to be determined whether plaintiffs will succeed on their claims against the Agency. However, plaintiffs Bauserman and Broe did timely comply with the notice requirements of MCL 600.6431(3) and therefore are not procedurally barred on that basis from the substantive consideration of their claims. We thus affirm in part and reverse in part the judgment of the Court of Appeals and remand to that court for further proceedings consistent with this opinion.[20]

Stephen J. Markman
Bridget M. McCormack
Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Elizabeth T. Clement

---

[18] This is true regardless of whether the time elapsed is calculated as ending upon the filing of Bauserman's complaint or upon the filing of the amended complaint on October 19, 2015, which added Broe as a named plaintiff to the action.

[19] Williams's claim was untimely regardless of whether the triggering event was the termination of his receipt of future unemployment compensation or the later garnishment of his wages and interception of his tax refund. Moreover, Williams has not argued that each garnishment of his wages "g[ave] rise to" a new cause of action.

[20] On remand, the Court of Appeals should consider the Agency's argument that it is entitled to summary disposition on the ground that plaintiffs failed to raise cognizable constitutional tort claims.

S T A T E O F M I C H I G A N

SUPREME COURT

GRANT BAUSERMAN, KARL WILLIAMS, and TEDDY BROE, on Behalf of Themselves and All Others Similarly Situated,

Plaintiffs-Appellants,

v No. 156389

UNEMPLOYMENT INSURANCE AGENCY,

Defendant-Appellee.

MCCORMACK, C.J. (*concurring*).

I concur in the majority opinion. If MCL 600.6431(3)'s sixth-month notice period governs the plaintiffs' claims, it started to run when the state deprived the plaintiffs of a property interest without due process. I write separately, however, because I am not convinced that our strict-compliance rule from *McCahan* and *Rowland* for notice of statutorily created claims applies to a due-process claim in particular, or to constitutional tort claims at all. If a different standard governs a due-process claim, then Mr. Williams's claim might also survive. But since Mr. Williams has not made this argument, I join the majority opinion's result.

We held in *Rowland v Washtenaw Co Rd Comm*, 477 Mich 197; 731 NW2d 41 (2007), that a suit may be dismissed for failure to comply with a statutory notice requirement even if the defendant was not prejudiced by the lack of notice, abrogating our

precedent holding notice requirements unconstitutional with no actual prejudice. We reasoned that "inasmuch as the Legislature is not even required to provide a defective highway exception to governmental immunity, it surely has the authority to allow such suits only upon compliance with rational notice limits." *Rowland*, 477 Mich at 212. In other words, when the government waives its immunity from suit, it may do so on its own terms, subject only to rational-basis review. And the notice provision survived our rational-basis review.

Our opinion in *McCahan v Brennan*, 492 Mich 730; 822 NW2d 747 (2012), followed. We explained that it is "the sole province of the Legislature to determine whether and on what terms the state may be sued" and that "the judiciary has no authority to restrict or amend those terms." *Id*. at 732. And so we extended the *Rowland* rule to apply to the notice provision in MCL 600.6431 (the same Court of Claims notice provision at issue) and other statutory notice or filing provisions like it. *Id*. at 732-733.

But we have not held that the same is true of constitutional claims generally, or due-process claims in particular.[1] And I'm not sure we should: *Rowland*'s governmental-immunity rationale is less persuasive in the constitutional context. The *Rowland* and *McCahan* plaintiffs' substantive claims (for personal injuries resulting from a defective highway condition in *Rowland*, and for automobile tort liability in *McCahan*) existed only by legislative grace—there is no constitutional guarantee of safe roads or payment of

[1] As the majority explains, the Court of Appeals did so in *Rusha v Dep't of Corrections*, 307 Mich App 300; 859 NW2d 735 (2014); see also *Mays v Snyder*, 323 Mich App 1, 30-37; 916 NW2d 227 (2018) (affirming a denial of summary disposition because application of the notice provision would have divested the plaintiffs of the ability to vindicate alleged constitutional violations by depriving them of access to the courts).

personal injury benefits. The state enjoys broad immunity from suit unless it waives its immunity by creating a statutory right of action; the Legislature may place whatever conditions it wishes on rights of its own creation, including a notice requirement. And courts shouldn't undermine those legislatively created conditions.

But it is the Constitution that forbids the government from depriving a person of his property without due process of law. The Legislature is not the source of the due-process right (more often its target), so the fundamental principle that animated our decisions in *Rowland* and *McCahan* isn't implicated here. Whether and how much the Legislature can limit a person's ability to pursue a due-process claim is a first-principles question: A strict-compliance interpretation of the MCL 600.6431(3) notice requirement applied to a due-process claim will permit the Legislature to burden or curtail constitutional rights.[2] How much of a burden is too much?

To be sure, the due-process right, like any other constitutional right, is not absolute. "A constitutional claim can become time-barred just as any other claim can. Nothing in the Constitution requires otherwise." *Block v North Dakota*, 461 US 273, 292; 103 S Ct 1811; 75 L Ed 2d 840 (1983) (citations omitted). Constitutional remedies may be "subject to a reasonable time bar designed to protect other important societal values." *Hair v United*

[2] Of course MCL 600.6431(3) requires only that *notice* of a claim be filed within six months; and the complaint itself must be filed within three years. But in many cases, claims may be time-barred by the initial notice requirement before a victim ever realizes she was harmed. Some "deprivations, such as those involving denial of due process or of equal protection, will be far more subtle" than a more obvious tort like a battery. *Felder v Casey*, 487 US 131, 146 n 3; 108 S Ct 2302; 101 L Ed 2d 123 (1988). "In the latter, and by no means negligible, category of constitutional injuries, victims will frequently fail to recognize within the 4-month statutory period that they have been wronged at all." *Id*.

States, 350 F3d 1253, 1260 (CA Fed, 2003). The Legislature may, at its discretion, restrict or change "the forms of action or modes of remedy . . . provided adequate means of enforcing the right remain. In all such cases, the question is one of reasonableness, and we have, therefore, only to consider whether the time allowed in this statute is, under all the circumstances, reasonable." *Terry v Anderson*, 95 US 628, 633; 24 L Ed 365 (1877).

But that's the question: is the six-month, no-exceptions notice provision reasonable when the government has taken a person's property without due process?[3] The answer matters for Mr. Williams. Hypotheticals show why it's a hard question: If the Legislature

[3] It's no secret that notice-of-claim statutes burden claimants' rights—that's the point. Notice-of-claim statutes are "designed to minimize governmental liability . . . ." *Felder*, 487 US at 153. And although notice-of-claim statutes can shield the state against statutory claims, they may have to yield to higher authorities like the Constitution or federal law. For example, the United States Supreme Court has held that such abbreviated periods for bringing claims conflict with 42 USC 1983 and thus are preempted by federal law. The Court held that Wisconsin could not apply its four-month notice period to bar § 1983 claims in its state courts:

> A state law that conditions that right of recovery upon compliance with a rule designed to minimize governmental liability, and that directs injured persons to seek redress in the first instance from the very targets of the federal legislation, is inconsistent in both purpose and effect with the remedial objectives of the federal civil rights law. [*Felder*, 487 US at 153.]

Similarly, the Court overruled a Maryland case that applied the state's six-month limitations period to an employment discrimination case under the Civil Rights Act:

> [T]he legislative choice of a restrictive 6-month limitations period reflects in part a judgment that factors such as minimizing the diversion of state officials' attention from their duties outweigh the interest in providing employees ready access to a forum to resolve valid claims. That policy is manifestly inconsistent with the central objective of the Reconstruction-Era civil rights statutes, which is to ensure that individuals whose federal constitutional or statutory rights are abridged may recover damages or secure injunctive relief. [*Burnett v Grattan*, 468 US 42, 54-55; 104 S Ct 2924; 82 L Ed 2d 36 (1984).]

enacted a statute that required me to notice my intent to challenge a local ordinance that limits gun ownership to one weapon per household within 24 hours of having my weapon confiscated, we would surely be troubled by that barrier to my ability to vindicate my Second Amendment rights. And likewise if I wait 50 years to complain that denial of a park permit for my annual church picnic violated the First Amendment, we would think it unfair for the government to be on the hook when there is likely no information available or witnesses around to contest the complaint. I don't know where this six-month notice period for a claim that the state has taken my tax refund without due process falls on that continuum.

Mr. Williams has not challenged the application of MCL 600.6431(3) to his due-process claims; he has instead conceded that the six-month notice period for property damage or personal injury applies to his claims. Given that, I agree with the majority that Mr. Williams's claim is untimely because he failed to file notice within six months of the May 2014 garnishment, when he first suffered a deprivation of property.

Bridget M. McCormack

CAVANAGH, J., did not participate in the disposition of this case because the Court considered it before she assumed office.