

MICHIGAN SUPREME COURT



Office of Public Information

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FOR IMMEDIATE RELEASE

Prisoner seeks review of former governor's commutation grant – and denial – in appeal Supreme Court hears this week

Also before the Court: Ethics charges against judge who had affair with litigant

LANSING, MI, December 9, 2013 – A long-time prisoner whose commutation request was first granted, then denied by former Gov. Jennifer Granholm will have his case heard this week by the Michigan Supreme Court.

Matthew [Makowski](#), who is serving a life sentence without parole for his role in the 1988 robbery and murder of a co-worker, sought to have his sentence modified so that he would be eligible for parole. In her final days as governor, Granholm first commuted his sentence, then, after the victim's family protested, withdrew the commutation. Makowski's constitutional challenge to Granholm's actions has been dismissed by the trial court and Court of Appeals, who concluded that the courts lacked the authority to review a governor's commutation decision.

The Supreme Court will also hear [In re Hon. Wade H. McCree](#), in which a judge faces sanctions for having an extramarital affair with a woman who was a complainant in a case before him. The Judicial Tenure Commission charges, among other matters, that the judge used his chambers to have sex with the woman and falsely reported to the Wayne County Prosecutor that the woman was stalking him.

Also before the Court is [In re COH, ERH, JRG, KBH, Minors](#), in which the Department of Human Services challenges a Court of Appeals ruling in favor of a woman who sought to be appointed guardian of her three grandchildren and their half-sibling. The children had been with a foster family for a number of months when their mother agreed to terminate her parental rights; the children's fathers' parental rights had been terminated also. The family court denied the grandmother's guardianship petition, finding that the children were doing well with their foster parents, who had petitioned to adopt them, and that it was in the children's best interests to remain there. But the Court of Appeals reversed, directing the family court to grant the grandmother's guardianship petition. One issue in the case is whether the grandmother was entitled to a preference, as the children's relative, over the foster family.

The other cases the Court will hear involve constitutional, criminal, procedural, shareholder oppression, tort, and Whistleblower Protection Act issues.

The Court will hear oral arguments in its courtroom on the sixth floor of the Michigan Hall of Justice on **December 10, 11 and 12**, starting at **9:30 a.m.** each day. The Court's 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](http://www.courts.mi.gov/courts/michigansupremecourt/oral-arguments/pages/default.aspx). The Court provides summaries of the cases it will hear at <http://www.courts.mi.gov/courts/michigansupremecourt/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, December 10
Morning Session

IN RE COH, ERH, JRG, KBH, Minors (case no. 147515)

Court of Appeals case no. 309161

Attorney for appellant Department of Human Services: Charles F. Justian/(231) 724-6435

Attorney for appellee Lori Scribner: Scott G. Bassett/(941) 794-2904

Attorney for intervenor Michigan Children's Institute Superintendent: H. Daniel Beaton, Jr./ (517) 373-1110

Attorney for amicus curiae Children's Law Section of the State Bar of Michigan: Tobin L. Miller/(517) 241-4511

Attorney for amicus curiae Legal Services Association of Michigan and Michigan State Planning Body for the Delivery of Legal Services to the Poor: Beth J. Kerwin/(248) 566-8460

Trial Court: Muskegon County Circuit Court Family Division

Issue: A grandmother seeks guardianship of four children – and argues that the family court should favor relatives over non-related foster parents. ... [Read more](#)

MADUGULA v TAUB, et al. (case no. 146289)

Court of Appeals case no. 298425

Attorney for plaintiff Rama Madugula: Gerard V. Mantese/(248) 457-9200

Attorney for defendant Benjamin A. Taub: Ian James Reach/(734) 994-1400

Attorney for amicus curiae Business Law Section of the State Bar of Michigan: James L. Carey/(248) 751-7800

Trial Court: Washtenaw County Circuit Court

Issue: The defendant in this case seeks to overturn a jury verdict against him for shareholder oppression. ... [Read more](#)

Afternoon Session

PEOPLE v WILSON (case no. 146480)

Court of Appeals case no. 311253

Prosecuting attorney: Joshua D. Abbott/(586) 469-5350

Attorney for defendant Dwayne E. Wilson: Peter Jon Van Hoek/(313) 256-9833

Attorney for amicus curiae Prosecuting Attorneys Association of Michigan: Danielle Walton/(248) 858-0656

Trial Court: Macomb County Circuit Court

Issue: The defendant in this criminal case was convicted of felony-murder, but acquitted of the underlying felony, home invasion. Those convictions were vacated on appeal; when the

defendant was again charged with felony-murder based on home invasion for his second trial, he argued that double jeopardy barred that charge. ... [Read more](#)

WURTZ v BEECHER METROPOLITAN DISTRICT, et al. (case no. 146157)

Court of Appeals case no. 301752

Attorney for plaintiff Richard L. Wurtz: Charles A. Grossmann/(810) 232-0553

Attorney for defendants Beecher Metropolitan District, Leo McClain, Jacquelin Corlew, and Sheila Thorn: Nancy Vayda Dembinski/(248) 476-6900

Attorney for amicus curiae Michigan Association for Justice: Eugenie B. Eardley/(616) 874-2647

Trial Court: Genesee County Circuit Court

Issue: The plaintiff in this case maintains that his former employer violated the state's Whistleblower Protection Act when the employer declined to extend his 10-year contract; he claims the employer's decision was retaliation for his reporting suspected violations of the OMA, the Freedom of Information Act, and other Michigan statute. ... [Read more](#)

Wednesday, December 11

Morning Session

IN RE MCCREE (case no. 146826)

Attorney for petitioner Judicial Tenure Commission: Paul J. Fischer/(313) 875-5110

Attorney for respondent Judge Wade H. McCree: Brian D. Einhorn/(248) 355-4141

Tribunal: Judicial Tenure Commission

Issue: A Wayne County judge had a sexual relationship with a woman who was the complainant in a case before him. The Judicial Tenure Commission is calling for the Supreme Court to remove the judge from the bench, and conditionally suspend him for six years. ... [Read more](#)

MAKOWSKI v GOVERNOR, et al. (case no. 146867)

Court of Appeals case no. 307402

Attorney for plaintiff Matthew Makowski: Paul D. Reingold/(734) 763-4319

Attorney for defendants Governor and Secretary of State: A. Peter Govorchin/(517) 335-7021

Trial Court: Ingham County Circuit Court

Issue: The plaintiff, who was sentenced to life in prison without the possibility of parole for first-degree murder and armed robbery, contends that former Governor Granholm exceeded her constitutional authority when she first signed a commutation changing his sentence to parolable life and sent it to the Secretary of State – and then revoked the commutation. ... [Read more](#)

Afternoon Session

PEOPLE v LAFOUNTAIN (case no. 146496)

Court of Appeals case no. 306858

Prosecuting attorney: Bruce H. Edwards/(517) 373-4875

Attorney for defendant Suzanne Fay LaFountain: Desiree M. Ferguson/(313) 256-9833

Trial Court: Cheboygan County Circuit Court

Issue: The defendant in this case seeks to overturn her conviction for operating a meth lab. ... [Read more](#)

ACORN INVESTMENT CO. v MICHIGAN BASIC PROPERTY INSURANCE ASSOCIATION (case no. 146452)

Court of Appeals case no. 306361

Attorney for plaintiff Acorn Investment Co.: James C. Klemanski/(248) 524-0000

Attorney for defendant Michigan Basic Property Insurance Association: John D. Honeyman/(248) 356-8590

Trial Court: Wayne County Circuit Court

Issue: The parties dispute whether a judgment entered on the basis of an appraisal panel's recommendation amounts to a "verdict" for purposes of case evaluation sanctions under MCR 2.403. ... [Read more](#)

Thursday, December 12

Morning Session Only

BONNER v CITY OF BRIGHTON (case no. 146520)

Court of Appeals case no. 302677

Attorney for plaintiffs Leon V. Bonner and Marilyn E. Bonner: Dennis B. Dubuc/(248) 486-5508

Attorney for defendant City of Brighton: Caryn A. Gordon/(313) 446-1530

Attorney for amicus curiae Michigan Municipal League: Mary Massaron Ross/(313) 983-4801

Attorney for amicus curiae Real Property Law Section of the State Bar of Michigan: David E. Pierson/(517) 482-4890

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

Attorney for amicus curiae Public Corporation Law Section of the State Bar of Michigan: Carol A. Rosati/(248) 489-4100

Trial Court: Livingston County Circuit Court

Issue: The plaintiffs in this case challenge a Brighton city ordinance that defines building repairs as "unreasonable" – and creates a presumption that the building is a public nuisance – whenever the city determines that the cost of repairs would exceed 100 percent of the structure's true cash value. ... [Read more](#)

PEOPLE v CHENAULT (case nos. 146523-4)

Court of Appeals case nos. 309384, 310456

Prosecuting attorney: Marilyn J. Day/(248) 858-0679

Attorney for defendant Schuyler Dion Chenault: Elizabeth L. Jacobs/(313) 962-4090

Attorney for amicus curiae Michigan Innocence Clinic: David A. Moran/(734) 763-9353

Attorney for amicus curiae Prosecuting Attorneys Association of Michigan: Timothy A. Baughman/(313) 224-5792

Trial Court: Oakland County Circuit Court

Issue: One issue in this case involves recorded witness statements that the prosecution did not share with the defendant. He contends that, if he had had these recordings, he would have used them to support his theory of the case and that the outcome would likely have been different. ... [Read more](#)

IN RE ESTATE OF SHOLBERG (case no. 146725)

Court of Appeals case no. 307308

Attorney for plaintiff Diane K. Sholberg, as Personal Representative for the Estate of Terri

A. Sholberg: Andrew P. Abood/(517) 332-5900

Attorney for defendants Robert Truman and Marilyn Truman: Anthony F. Caffrey III/(248) 544-1100

Attorney for amicus curiae Property Management Association of Michigan, et al.: I.

Matthew Miller/(248) 851-8000

Trial Court: Emmet County Circuit Court

Issue: A woman was killed when her car collided with a horse that had escaped from a nearby farm. Can the farm's non-resident owners – who did not participate in the actions leading to the horse's escape – be held liable under a nuisance theory? ... [Read more](#)

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