MICHIGAN COURTS NEWS RELEASE
John Nevin, Communications Director
Ph: 517-373-0129 Twitter: @MISupremeCourt FB: facebook.com/misupremecourt

FOR IMMEDIATE RELEASE

Michigan Supreme Court Announces November 2018 Oral Arguments Schedule

LANSING, MI, October 30, 2018 —The Michigan Supreme Court announced that oral arguments in five cases will be heard November 19, 2018. The Court will convene to hear the first case at 9:30 a.m. in the sixth floor of the Hall of Justice, 925 W. Ottawa Street. The schedule of arguments is posted on the Supreme Court's oral arguments homepage.

The Court broadcasts its oral arguments and other hearings live on the Internet via streaming video technology. Watch the stream live only while the Court is in session and on the bench. Streaming will begin shortly before the hearings start; audio will be muted until justices take the bench. Follow the Court on Twitter to receive regular updates as cases are heard. Please contact the Office of Public Information at 517-373-0129 or SeaksL@courts.mi.gov for permission to film or photograph during the hearing. See the link to Request and Notice for Film and Electronic Media Coverage of Court Proceedings. The request must be submitted three days in advance of the hearing.

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.

Monday, November 19, 2018
9:30 a.m.

MOAA 156240
HOME-OWNERS INSURANCE COMPANY, Kimberlee Hillock
Plaintiff-Appellee,
and

AUTO-OWNERS INSURANCE COMPANY,
Plaintiff,

v (Appeal from Ct of Appeals)
(Ingham – Collette, W.)

RICHARD JANKOWSKI and JANET JANKOWSKI, Joel Finnell
Defendants-Appellants.

Richard and Janet Jankowski are residents of Michigan who spend winters in Florida. In 2014, they purchased, registered, and insured a new vehicle in Florida. While in Florida, they were involved in a car accident that resulted in serious injuries. Home-Owners Insurance Company, which insured the Jankowskis' Michigan-registered vehicles, denied their claim for personal protection insurance (PIP) benefits under Michigan's No-Fault Act, MCL 500.3101 *et seq.*, on the basis that the vehicle involved in the accident was registered in Florida, not Michigan. Pursuant to MCL 500.3113(b), a person is excluded from receiving PIP benefits if, at the time of the accident, that person "was the owner or registrant of a motor vehicle or motorcycle involved in the accident with respect to which the security required by section 3101 . . . was not in effect." Home-Owners filed this declaratory action. The trial court granted partial summary disposition to Home-Owners, ruling that Richard Jankowski could not recover PIP benefits because he was an owner of the vehicle and the vehicle did not carry Michigan no-fault insurance, but also ruling that Janet Jankowski was not excluded from PIP benefits because she was not an owner or an "owner by use." Both parties appealed. The Court of Appeals affirmed the trial court's ruling that Richard Jankowski could not collect PIP benefits for an accident involving a vehicle registered in Florida, but the panel overturned the ruling that Janet Jankowski was eligible for PIP benefits as a non-owner of the vehicle. The panel reasoned that MCL 500.3113(b) plainly precludes a vehicle's owner from collecting PIP benefits if the vehicle was not covered under a Michigan no-fault policy. The Supreme Court has ordered oral argument on defendants' application for leave to appeal to address whether eligibility for PIP benefits required registration in Michigan of the vehicle involved in the accident, and whether defendants were obligated to maintain security for the payment of PIP benefits pursuant to MCL 500.3101 or be precluded from receiving such benefits by MCL 500.3113(b).

MOAA 156408

PEOPLE OF THE STATE OF MICHIGAN, Aaron Mead
Plaintiff-Appellant,

v (Appeal from Ct of Appeals)
(Berrien – LaSata, C.)

KEVIN PATRICK KAVANAGH, Daniel Grow
Defendant-Appellee.

During a traffic stop, marijuana was found in defendant's car, and he was charged with possession of 5 to 45 kilograms of marijuana. He moved to suppress the evidence on the basis of an illegal search. The trial court denied the motion, and the Court of Appeals and the Supreme Court denied interlocutory appellate review. Following a bench trial, defendant was convicted as charged. On appeal, he again argued that the search of his car was illegal. After reviewing the dashboard camera recording of the traffic stop, the Court of Appeals overturned defendant's conviction in an unpublished opinion, holding that the police did not have a legitimate basis to detain defendant for a search of his car. The Supreme Court has ordered oral argument on the prosecution's application for leave to appeal to address: (1) whether a trial court's factual findings regarding a video recording of events under consideration is entitled to deference by an appellate court; (2) the nature of evidence that may be considered in determining whether the trial

court's factual findings were clear error; and (3) the appropriate standard of review under such circumstances.

MOAA 155120

CELESTINE STACKER, Personal Representative of the ESTATE OF MAE HENDRIX,
Plaintiff-Appellee,

Melissa Stewart
Steven Karfis

v (Appeal from Ct of Appeals)
(Oakland – Nichols, R.)

LAUTREC, LTD,
Defendant-Appellant.

Sidney Klingler

Plaintiff's decedent, Mae Hendrix, lived in an apartment owned by defendant. She slipped and fell on a driveway that was a common area used by tenants to access their apartments. Plaintiff sued defendant, alleging common law premises liability and breach of MCL 554.139(1)(a). The trial court granted summary disposition in favor of defendant. The Court of Appeals, in a split unpublished opinion, reversed the dismissal of the statutory claim. The Court of Appeals majority held that the driveway was akin to a sidewalk, and, instead of applying *Allison v AEW Capital Mgt, LLP*, 481 Mich 419 (2008), it applied *Benton v Dart Props, Inc*, 270 Mich App 437 (2006), concluding that plaintiff had established a genuine issue of material fact whether defendant breached its duty under MCL 554.139(1)(a). The Supreme Court has ordered oral argument on defendant's application for leave to appeal to address whether genuine issues of material fact preclude summary disposition on plaintiff's claim that the driveway was not "fit for the use intended by the parties." MCL 554.139(1)(a).

MOAA 156086

RITA KENDZIERSKI, BONNIE HAINES, GREG DENNIS, LOUISE BERTOLINI, JOHN BARKER, JAMES COWAN, VINCENT POWIERSKI, ROBERT STANLEY, ALAN MOROSCHAN, and GAER GUERBER, on Behalf of Themselves and All Others Similarly Situated,
Plaintiffs-Appellees,

Stuart Israel
Christopher Legghio

v (Appeal from Ct of Appeals)
(Macomb – Druzinski, D.)

MACOMB COUNTY,
Defendant-Appellant.

Susan Zitterman

Plaintiffs are retired employees of Macomb County who filed this class action suit, seeking an injunction against the county prohibiting it from diminishing or otherwise altering their right to lifetime health benefits as established in the various collective bargaining agreements (CBAs) in effect from 2008-2010. Plaintiffs assert a vested right to these benefits under the CBAs. The suit

was filed after the county adopted several changes to retiree health care, including increased prescription co-pays, changes in deductibles, and reductions in plan options. The trial court held that plaintiffs' health care benefits were vested under the CBAs, but that the content of those benefits was subject to reasonable modification. Both sides appealed. The Court of Appeals held in a published opinion that plaintiffs' entitlement to health care benefits was vested for the lifetime of all retirees and their spouses, and that those benefits could not be modified without the consent of the affected retirees. In reaching this conclusion, the Court of Appeals found that the subject CBA, which was silent on vested health care benefits, was ambiguous, thereby allowing for the consideration of extrinsic evidence. The Supreme Court has ordered oral argument on the county's application for leave to appeal.

MOAA 155849

PEOPLE OF THE STATE OF MICHIGAN, Mark Kneisel
Plaintiff-Appellee,

v (Appeal from Ct of Appeals)
(Washtenaw – O'Brien, D.)

SHAWN LOVETO CAMERON, JR., Marilena David-Martin
Defendant-Appellant.

In December 2013, a jury convicted defendant of assault with intent to commit great bodily harm. In January 2014, the trial court sentenced defendant as a habitual offender to serve a prison term and to pay $1,611 in court costs, pursuant to MCL 769.1k(1)(b). In June 2014, the Supreme Court decided *People v Cunningham*, 496 Mich 145, 147 (2014), holding that "MCL 769.1k(1)(b)(*ii*) provides courts with the authority to impose only those costs that the Legislature has separately authorized by statute." However, in October 2014, the Legislature amended MCL 769.1k(1)(b) to retroactively authorize the imposition of costs that are "reasonably related" to various court-related expenses. On appeal, defendant challenged the constitutionality of the retroactive amendment of MCL 769.1k(1)(b). The Court of Appeals affirmed, holding that the statute is constitutional, but remanding the case to the trial court for a determination of whether a factual basis existed for the amount of costs imposed. On remand, the trial court upheld the $1,611 in costs and provided a detailed explanation for the amount. Defendant appealed again. In a published opinion, the Court of Appeals affirmed, holding that court costs are a tax and that MCL 769.1k(1)(b), as amended, does not violate Michigan's constitution. The Supreme Court has ordered oral argument on defendant's application for leave to appeal to address: (1) whether court costs under MCL 769.1k(1)(b) should be classified as a tax, a fee, or some other category of charge; and (2) if court costs are a tax, whether the statute violates the Separation of Powers Clause, Const 1963, art 3, § 2, or the Distinct-Statement Clause, Const 1963, art 4, § 32.