



## MICHIGAN COURTS NEWS RELEASE

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FOR IMMEDIATE RELEASE

### **Michigan Supreme Court to hear first [oral arguments](#) of 2014-2015 term Initial case be heard October 7 in the historic Supreme Court courtroom in the Capitol**

LANSING, MI, September 30, 2014 - Can interest and administrative fees for delinquent taxes be waived in a Michigan Tax Tribunal proceeding in which the county treasurer was not a party; was the county treasurer in a legal relationship with the township for purposes of waiving interest and fees; and does the plaintiff's complaint for relief fall under the exclusive jurisdiction of the Tax Tribunal? These are issues before the Court in the first case of the term, which begins at 9:30 a.m. on October 7 in the [historic Supreme Court courtroom](#) on the third floor of the State Capitol building. Find the schedule of oral arguments and summaries of cases [here](#).

Starting the afternoon of October 7 and continuing on October 8 and 9 beginning at 9:30 a.m., the Court will hear 10 other cases, including issues of funding a legislative mandate, the Public School Employees Retirement Act, the Public Employee Retirement System Investment Act (PERSIA), breach of contract, criminal offenses, the Opening Meetings Act (OMA), and governmental immunity. The Court will hear the cases in its courtroom on the sixth floor of the Michigan Hall of Justice.

Oral arguments are open to the public and [live-streamed](#). Please note the stream is available only while the Court is in session and on the bench. Streaming will begin shortly before the hearing starts; audio will be muted until the Court takes the bench. Archives of oral argument are available for [viewing here](#).

*Please note: These brief accounts on the following pages 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.*

-MSC-

**Tuesday, October 7**

***Morning Session – Historic Supreme Court Courtroom, Third Floor, State Capitol Building – 9:30 a.m.***

**Docket No. 147384**

Sal-Mar Royal Village,  
Plaintiff-Appellee,  
vs (Appeal from Ct of Appeals)  
(Macomb – Viviano, D.)  
Macomb County Treasurer,  
Defendant-Appellant.

**Attorneys**

Myles B. Hoffert  
Paige Harley Bachand

Frank K. Krycia

**Issues:** Can interest and administrative fees for delinquent taxes be waived in a Michigan Tax Tribunal proceeding in which the Macomb County Treasurer was not a party; was the Macomb County Treasurer in a legal relationship with Macomb Township for purposes of waiving interest and fees; and does the plaintiff's complaint for relief fall under the exclusive jurisdiction of the Tax Tribunal? [Read More](#)

***Break***

***Afternoon Session – Sixth Floor, Hall of Justice***

**Docket No 147860**

The Service Source, Inc. and  
The Service Source Franchise, LLC,  
Plaintiffs-Appellees,  
vs (Appeal from Ct of Appeals)  
(Lenawee – Noe, M.)  
DHL Express (USA), Inc.,  
Defendant-Appellant.

**Attorneys**

John J. Bursch

Noreen L. Slank  
Christopher S. Ruhland

**Issues:** Are the parties' agreements requirements contracts, and if so, does that affect the issue of the defendant's alleged breach of contract; was summary disposition appropriately granted to the plaintiffs on the issue of liability; and, assuming that the defendant is liable for breach of contract, what is the period for which the defendant is responsible for the plaintiffs' lost profits? [Read More](#)

**Docket No 148347**

People of the State of Michigan,  
Plaintiff-Appellee,  
vs (Appeal from Ct of Appeals)  
(Wayne – Parker, L.)  
Randall Scott Overton,  
Defendant-Appellant.

**Attorneys**

Madonna Georges Blanchard

Shannon M. Smith

**Issue:** Was the evidence sufficient to show that the defendant engaged in the “intrusion, however slight, of any part of a person’s body or of any object into the genital or anal openings of another person’s body,” such that his conviction of first-degree criminal sexual conduct under MCL 750.520b can be sustained? [Read More](#)

## Wednesday, October 8

### *Morning Session – 9:30 a.m.*

**Docket No 146763**

Heather Lynn Hannay,  
Plaintiff-Appellee,  
vs (Appeal from Ct of Appeals)  
(Ct of Claims – Aquilina, R.)  
Department of Transportation,  
Defendant-Appellant.

**Attorneys**

Mark Granzotto

John P. Mack

**Issues:** The plaintiff was injured when the car she was driving was struck by a State of Michigan truck. Under the motor vehicle exception to governmental immunity, a governmental agency can be liable for “bodily injury.” Does economic loss, in the form of wage loss, qualify as a “bodily injury” under the motor vehicle exception, MCL 691.1405? Did the plaintiff present such evidence in this case? [Read More](#)

**Docket No. 147335**

Harold Hunter, Jr.,  
Plaintiff-Appellant,  
vs (Appeal from Ct of Appeals)  
(Genesee – Farah, J.)  
David Sisco and Auto Club Insurance Association,  
Defendants,  
and  
City of Flint Transportation Department,  
Defendant-Appellee.

**Attorneys**

Allan Falk

Crystal Olmstead  
Anthony Chubb

**Issues:** The plaintiff was injured when the car he was driving was sideswiped by a dump truck operated by a city employee. Is the plaintiff’s tort claim against the city transportation department barred by governmental immunity? Do damages for pain and suffering, or emotional distress, qualify as a “bodily injury,” so that the plaintiff’s claim falls under the motor vehicle exception to governmental immunity, MCL 691.1405? [Read More](#)

**Docket No 147743**

People of the State of Michigan,  
Plaintiff-Appellee,  
vs (Appeal from Ct of Appeals)  
(Bay – Sheeran, J.)  
Robert Richard-Howard Nelson,  
Defendant-Appellant.

**Attorneys**

Sylvia L. Linton

Wendy H. Barnwell

**Issues:** Was the defendant denied his constitutional right to the effective assistance of trial counsel? Was the defendant denied the right to present a defense? Is the defendant entitled to a new trial? [Read More](#)

***Break******Afternoon Session*****Docket No 147296**

Wayne County Employees Retirement System  
and Wayne County Retirement Commission,  
Plaintiffs/Counter-Defendants-Appellees,  
vs (Appeal from Ct of Appeals)  
(Wayne – Sapala, M.)  
Charter County of Wayne,  
Defendant/Counter-Plaintiff-Appellant,  
and  
Wayne County Board of Commissioners,  
Defendant-Appellant.

**Attorneys**Marie T. Racine  
Brian G. Shannon

Phillip J. DeRosier

**Issues:** What is the source and nature of the County’s power to move funds from the Inflation Equity Fund (IEF)? Does the movement of IEF assets to the defined benefit plan without a corresponding offset to the County’s Annual Required Contribution violate the Public Employee Retirement System Investment Act (PERSIA)? Does the movement of \$32 million in IEF assets to the defined benefit plan constitute a “transaction” within the meaning of MCL 38.1133(8)? [Read More](#)

**Docket No 148617**

Kenneth J. Speicher,  
Plaintiff-Appellee,  
vs (Appeal from Ct of Appeals)  
(Van Buren – Hamre, P.)  
Columbia Township Board of  
Trustees and Columbia Township  
Planning Commission,  
Defendants-Appellants.

**Attorneys**

John J. Bursch

Mary Massaron Ross

**Issue:** Does MCL 15.271(4) authorize an award of attorney fees and costs to a plaintiff who obtains declaratory relief regarding claimed violations of the Open Meetings Act, or must the plaintiff obtain injunctive relief as a necessary condition of recovering attorney fees and costs under MCL 15.271(4)? [Read More](#)

**Thursday, October 9**

***Morning Session – 9:30 a.m.***

**Docket No 147794**

Daniel Adair, *et al.*,  
Plaintiffs-Appellees/Cross-Appellants,  
vs (Appeal from Ct of Appeals)  
Michigan Department of Education,  
Budget Director, Treasurer, and  
Superintendent of Public Instruction  
for the State of Michigan,  
Defendants-Appellants/Cross-Appellees.

**Attorneys**

Dennis R. Pollard

Timothy J. Haynes

**Issues:** Which party – the state or the plaintiff school districts - has the burden of proving underfunding of a legislative mandate in a challenge under Const 1963, art 9, § 29 (the Headlee Amendment), what elements of proof are necessary to sustain such a claim, and does acceptance of a general appropriation from the Legislature waive any challenge to the funding level for those requirements? [Read More](#)

**Docket No. 148748**

AFT Michigan, *et al.*,  
Plaintiffs-Appellants,  
and  
Michigan Education Association,  
Plaintiff,  
vs (Appeal from Ct of Appeals)  
(Ct of Claims – Aquilina, R.)  
State of Michigan,  
Defendant-Appellee,  
and  
State Treasurer, *et al.*,  
Defendants.

**Attorneys**

Mark H. Cousens

Joshua O. Booth

**Issue:** 2012 PA 300, which amended the Public School Employees Retirement Act, requires public school employees to pay for retiree healthcare benefits by paying a 3% levy on their salary or to opt out of receiving retiree healthcare benefits. 2012 PA 300 also requires current public school employees to choose between various retirement benefit options, including paying

a 4% levy on salary to stay in the defined benefit retirement program. The plaintiff school labor unions argue that 2012 PA 300 is unconstitutional and a breach of contract; the Court of Appeals upheld the law. [Read More](#)

**Docket No. 147735**

People of the State of Michigan,  
vs (Appeal from Ct of Appeals)  
(Wayne – Allen, D.)

Thabo Jones.  
Defendant-Appellee.

**Attorneys**

Timothy A. Baughman

James G. Howarth

**Issues:** Does a legislative provision barring consideration of a necessarily included lesser offense violate the separation of powers doctrine? Does MCL 257.626(5) violate a defendant's right to a jury trial by foreclosing a jury instruction on a lesser offense? Is MCL 257.601d a necessarily included lesser offense of MCL 257.626(4)? [Read More](#)