

MICHIGAN SUPREME COURT



Office of Public Information

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FOR IMMEDIATE RELEASE

Medical marijuana case on the docket for Michigan Supreme Court's first oral arguments of 2013-2014 term

LANSING, MI, October 7, 2013 – A medical marijuana user's lawsuit against the city of Wyoming, over a zoning ordinance that would impose civil penalties for growing and using marijuana, is one of 10 cases the Michigan Supreme Court will hear in the first oral arguments of the Court's new term this week.

The Wyoming ordinance prohibits any "[u]ses contrary to federal law," including the federal Controlled Substances Act. The plaintiff in *Ter Beek v Wyoming* argues that the ordinance is invalid under the Michigan Medical Marijuana Act. The Michigan Court of Appeals agreed, ruling that the city ordinance was void under the MMMA, and also held that the MMMA is not in conflict with the CSA.

The Court will hear arguments on **October 8, 9, and 10**, starting at **9:30 a.m.** each day. In keeping with tradition, the Court will hear the first case of the new session, *In re Forfeiture of Bail Bond*, in the Old Supreme Court Courtroom in the Capitol in Lansing. The Court will hear the nine other cases in its courtroom on the 6th floor of the Michigan Hall of Justice in Lansing. The Court's oral arguments are open to the public. The Court also live streams its hearings at <http://www.courts.mi.gov/Courts/MichiganSupremeCourt/oral-arguments/live-streaming/Pages/live-streaming.aspx>.

As a public service, 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, October 8

Morning Session (Old Supreme Court courtroom, Capitol Building)

IN RE FORFEITURE OF BAIL BOND (PEOPLE v GASTON) (case no. 146033)

Court of Appeals case no. 305004

Prosecuting attorney: Jason W. Williams/(313) 224-8109

Attorney for appellant You Walk Bail Bond Agency: James J. Makowski/(313) 309-8751

Attorney for amicus curiae American Bail Coalition: Clifford W. Taylor/(313) 963-6420

Trial Court: Wayne County Circuit Court

Issue: When a defendant fails to appear for a court appearance, MCL 765.28 requires the trial court to notify that defendant's bail bond agency within seven days. In this case, the trial court did not provide notice for approximately three years. Is the trial court barred from declaring the bond to be forfeit and entering judgment against the bond agency? ... [Read more](#)

Afternoon Session (Michigan Hall of Justice)

HENRY, et al. v LABORERS LOCAL 1191, et al. (case nos. 145631-2)

Court of Appeals case nos. 302373 and 302710

Attorneys for plaintiffs Anthony Henry and Keith White: Joel B. Sklar/(313) 963-4529,
Robert J. Dinges/(313) 963-1500

Attorney for plaintiffs Michael Ramsey and Glenn Dowdy: Ben M. Gonek/(248) 457-7000

Attorney for defendants Laborers Local 1191, d/b/a Road Construction Laborers of Michigan Local 1191 and Michael Aaron: Christopher P. Legghio/(248) 398-5900

Attorney for amicus curiae Attorney General Bill Schuette: Susan Przekop-Shaw/(517) 373-2560

Trial Court: Wayne County Circuit Court

Issue: The plaintiffs contend that they were fired from their jobs for reporting allegedly illegal conduct by their union. Are their claims under Michigan's Whistleblower Protection Act pre-empted by federal labor laws? ... [Read more](#)

PEOPLE v EARL (case no. 145677)

Court of Appeals case no. 302945

Prosecuting attorney: Louis F. Meizlish/(248) 452-8694

Attorney for defendant Ronald Lee Earl: Christopher M. Smith/(517) 334-6069

Attorney for amicus curiae Prosecuting Attorneys Association of Michigan: Timothy K. McMorrow/(616) 632-6710

Trial Court: Oakland County Circuit Court

Issue: The defendant, who was convicted of robbing a bank and possessing narcotics, was assessed \$130 for the state's crime victims' fund. At the time he robbed the bank, the statutory crime victims' assessment was \$60, but was raised to \$130 by the Legislature before the defendant's sentencing. Did the trial court's imposition of the higher fee violate the ex post factor clauses of the U.S. and Michigan Constitutions? ... [Read more](#)

Wednesday, October 9

Morning Session

IN RE APPLICATION OF THE DETROIT EDISON COMPANY TO INCREASE RATES (ABATE v MPSC) (case no. 145750)

Court of Appeals case no. 302110

Attorney for appellant Association of Businesses Advocating Tariff Equity: Robert A. W. Strong/(248) 988-5861

Attorney for appellee Michigan Public Service Commission: Anne M. Uitvlugt/(517) 241-6680

Attorney for petitioner-appellee The Detroit Edison Company: Stephen J. Rhodes/(517) 381-0100

Tribunal: Michigan Public Service Commission

Issue: Under MCL 460.6a(1), Detroit Edison shall allocate any refund owed to a primary customer “based upon their pro rata share of the total revenue collected” Is this statute ambiguous? Does this require Detroit Edison to refund to each primary customer that customer’s actual overpayment? ... [Read more](#)

FRADCO, INC. v DEPARTMENT OF TREASURY (case no. 146333)

Court of Appeals case no. 306617

Attorney for petitioner Fradco, Inc.: James H. Novis/(517) 347-1116

Attorney for respondent Department of Treasury: Scott L. Damich/(517) 373-3203

Attorney for amicus curiae Michigan Association of Certified Public Accountants: Wayne D. Roberts/(616) 776-7500

Attorney for amicus curiae Alvin L. Storrs Low-Income Taxpayer Clinic at Michigan State University College of Law: Michele L. Halloran/(517) 336-8088

Tribunal: Michigan Tax Tribunal

SMK, LLC v DEPARTMENT OF TREASURY (case no. 146335)

Court of Appeals case no. 306639

Attorney for petitioner SMK, LLC: James H. Novis/(517) 347-1116

Attorney for respondent Department of Treasury: Scott L. Damich/(517) 373-3203

Attorney for amicus curiae Michigan Association of Certified Public Accountants: Wayne D. Roberts/(616) 776-7500

Tribunal: Michigan Tax Tribunal

Issue: Under the Taxpayer Bill of Rights, a taxpayer may file a written request with the Department of Treasury, asking that copies of letters and notices regarding a tax dispute be sent to the taxpayer’s official representative. If such a request is filed, the Department “shall” send the representative a copy of each letter or notice that is sent to that taxpayer. A taxpayer wishing to appeal an adverse determination by the Department must appeal to the Tax Tribunal within 35 days. Does the 35-day appeal period begin to run when the taxpayer is served notice of the Department’s assessment, even if a copy of the assessment has not yet been mailed to the taxpayer’s designated representative?

... [Read more case no. 146333](#)

... [Read more case no. 146335](#)

PEOPLE v HARRIS (case no. 146212)

Court of Appeals case no. 304875

Prosecuting attorney: Randy L. Price/(989) 790-5330

Attorney for defendant James Early Harris, Jr.: Peter Jon Van Hoek/(313) 256-9833

Trial Court: Saginaw County Circuit Court

Issue: The defendant in this case became upset when another man, who was working on the defendant’s truck, stopped work to get out of the rain. While holding a gun – but not pointing it – the defendant stated that he would “silence” the other man if he did not either get back to work on the truck or return money for the job that the defendant had already paid. Was the evidence

sufficient to support the defendant's conviction for extortion? Did the defendant attempt to compel the other man to perform a "serious" action against his will? ... [Read more](#)

Afternoon Session

HUDDLESTON v TRINITY HEALTH MICHIGAN, et al. (case no. 146041)

Court of Appeals case no. 303401

Attorneys for plaintiff Marie Huddleston: Sherwin Schreier/(248) 548-4000, Mark R. Granzotto/(248) 546-4649

Attorney for defendants IHA of Ann Arbor, P.C., d/b/a Associates In Internal Medicine – Cherry Hill, Associates In Internal Medicine – Cherry Hill, P.C., and Dr. Joyce Leon:

Matthew D. Budds/(419) 249-7900

Attorney for amicus curiae Michigan Association for Justice: Ramona C. Howard/(248) 355-0300

Trial Court: Washtenaw County Circuit Court

Issue: The plaintiff in this case sued her doctor, the doctor's practice group, and a hospital for delaying five years to diagnose and treat her kidney cancer; as a result of the delay, her entire left kidney had to be removed. The defendants argued that the plaintiff had not suffered a "compensable injury" because she still had a second kidney that allowed her to live and function normally with few restrictions. Did the plaintiff suffer a "compensable injury" for the purposes of a medical malpractice claim? ... [Read more](#)

Thursday, October 10

Morning Session Only

TER BEEK v CITY OF WYOMING (case no. 145816)

Court of Appeals case no. 306240

Attorney for plaintiff John Ter Beek: Daniel S. Korobkin/(313) 578-6824

Attorney for defendant City of Wyoming: Jack R. Sluiter/(616) 531-5080

Attorney for amicus curiae Prosecuting Attorneys Association of Michigan: Christopher J. Forsyth/(231) 922-4600

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

Attorney for amicus curiae Michigan Municipal League: Andrew J. Mulder/(616) 392-1821

Attorney for amicus curiae City of Livonia: Michael E. Fisher/(734) 466-2520

Attorney for amicus curiae The Cato Institute, Drug Policy Alliance, and Law Enforcement Against Prohibition: Richard D. McLellan/(517) 374-9111

Attorney for amicus curiae Cannabis Attorneys of Mid-Michigan: Denise A. Pollicella/(517) 546-1181

Trial Court: Kent County Circuit Court

Issue: A medical marijuana user sued to overturn a Wyoming city zoning ordinance that would impose civil penalties for growing and using marijuana. The ordinance prohibits any "[u]ses contrary to federal law," including the federal Controlled Substances Act. Is the city ordinance invalid under the Michigan Medical Marijuana Act? Is the MMMA preempted by federal drug laws? ... [Read more](#)

MAJESTIC GOLF, L.L.C. v LAKE WALDEN COUNTRY CLUB, INC. (case no. 145988)

Court of Appeals case no. 300140

Attorney for plaintiff Majestic Golf, L.L.C.: Graham K. Crabtree/(517) 482-5800

Attorney for defendant Lake Walden Country Club, Inc.: Larry J. Saylor/(313) 963-6420

Attorney for amicus curiae Home Builders Association of Michigan: Gregory L.

McClelland/(517) 482-4890

Attorney for amicus curiae Michigan Golf Course Owners Association: Gregory L.

McClelland/(517) 482-4890

Trial Court: Livingston County Circuit Court

Issue: The owner of a development property leased some of the property to a country club for a golf course. One of the questions in this lawsuit is whether a forfeiture clause in the lease agreement should be enforced as written. ... [Read more](#)

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