

MSC Order List: June 24, 2011

27. June 2011 By Sarah Riley Howard

On June 24, 2011, the Supreme Court denied application for leave in two cases. In [Harrington v Simpson](#), No. 142546, Justice Markman dissented from the decision not to hold the matter in abeyance pending oral argument and decision in [Hoffner v Lanctoe](#), 489 Mich __ (2011). In both Harrington and Hoffner, the Court of Appeals held the “open and obvious” doctrine did not bar claims of falls on ice seen by the plaintiff because of findings that the ice was “effectively unavoidable.”

In [Brown v Blouir](#), No. 142159, justices wrote several concurrences disagreeing with each other on the scope of the “serious impairment of bodily function” exception to the no-fault act, defining when the injured may sue. Justice Young wrote essentially to urge the Legislature to undo recent Court case law from [McCormick v Carrier](#) on what constitutes “serious impairment” and make the exception tighter. Justices Cavanagh disagreed, with Justice Kelly joining, and restated his position that the Court had correctly interpreted the Legislature’s meaning of the term. Finally, Justice Markman wrote to urge time for the lower courts to apply McCormick, but noted that he believed the Legislature has already been sufficiently clear in limiting the class of injuries constituting “serious impairment.”

The Supreme Court also denied rehearing in two matters and dismissed three cases on stipulation of the parties.