

[MSC Order List: May 20, 2011](#)

5-24-2011 by Sarah Riley Howard

On May 20, 2011, the Michigan Supreme Court granted an application for leave to appeal, and denied five applications.

The Court granted leave in [Joseph v Auto Club Ins Ass'n \(ACIA\)](#), No. 142615 – prior to the opinion by the Court of Appeals – to consider whether one of its own 2010 decisions was correctly decided. More precisely, it appears likely the Court will again reverse course in favor of enforcing the No-Fault Act's limit on damages which acts as a quasi-one-year limitations period. The Court instructed the parties to brief whether *Regents of the Univ of Michigan v Titan Ins Co*, 487 Mich 289 (2010) was correct, holding that the state is exempted from the "one-year-back" rule and reviving the insured's damages claim. Specifically in *Joseph*, the parties will also brief whether the minority/insanity tolling provision of MCL 600.5851(1) applies to toll the "one-year-back" rule in MCL 500.3145(1) of the No-Fault Act.

The Macomb County Circuit Court denied summary disposition to ACIA based on the "one-year back" rule. The one-year-back rule provides that "the claimant may not recover benefits for any portion of the loss incurred more than 1 year before the date on which the action was commenced." Technically, it is not a statute of limitations, but practically acts like one since it cuts off damages. In *Regents of U-M*, the Supreme Court held that another statute speaking to statutes of limitation, in that case a law exempting public entities from certain limitations periods, trumped the No-Fault Act's one-year damages limit. In so doing, the Court overruled a 2006 case, *Cameron v ACIA*, 476 Mich 55. Here, the Court will decide if minors or those suffering from incapacitating mental illness can avoid the one-year-back rule during their period of infirmity. The prognosticators would predict the answer to be "no."