

MSC Orders: December 17, 2010

18. December 2010 By Matthew Nelson

The Michigan Supreme Court granted leave to appeal in one case and ordered oral argument on one application for leave to appeal. The Court also denied leave to appeal in two cases and denied a motion for reconsideration in a case decided before Justice Davis joined the Court.

In *Progressive Michigan Insurance Co. v. Smith*, the Court granted leave to appeal to consider what language is required to be included in the notice on the an auto no-fault policy and the associated certificate of insurance to effectively exclude a named individual from benefits under the policy. The NO-Fault Act permits an insurer to exclude a named individual from coverage if a statutorily required notice is included on the declaration page or face of the policy and the associated certificate of insurance. Specifically, [MCL 500.3009\(2\)](#) states as follows:

If authorized by the insured, automobile liability or motor vehicle liability coverage may be excluded when a vehicle is operated by a named person. Such exclusion shall not be valid unless the following notice is on the face of the policy or the declaration page or certificate of the policy and on the certificate of insurance:

Warning—when a named excluded person operates a vehicle all liability coverage is void—no one is insured. Owners of the vehicle and others legally responsible for the acts of the named excluded person remain fully personally liable.

The Court has asked the parties to address whether the last sentence of the section (in italics above) is required to be part of the notice. The Court of Appeals, in a split [decision](#), held that the complete sentence is required in the notice or the notice is ineffective.

In *People v. Duncan*, the Court ordered a MOA to consider whether the trial court abused its discretion by granting the defendant a new trial based on ineffective assistance of counsel for the reasons stated by the Court of Appeals dissent. The Court of Appeals [affirmed](#) the trial court's decision, but Judge Murray [dissented](#) because he did not believe that any purported deficiencies in the representation of the defendant made the defendant's trial unfair or changed the outcome in the case.