

MSC Order List: December 22, 2010

23. December 2010 By Madelaine Lane

On Wednesday, December 22, 2010, the Michigan Supreme Court denied three applications for leave to appeal.

The Court also denied the plaintiff-appellant's motion to disqualify each of the seven Justices of the Michigan Supreme Court in *McCarthy v. Sosnick*, Case Nos. 141439-40, 141442-43. In *McCarthy*, the plaintiff-appellant moved to disqualify the entire Court from considering his motion for reconsideration of the order denying his application for leave to appeal. As required by the Court's [new recusal rules](#), each of the seven justices wrote separately to affirm that he or she was not actually biased against any of the parties or attorneys in the case, and that there was no appearance of impropriety. Justice Markman took the opportunity in his statement to reiterate his concerns about the Court's new recusal rules by highlighting the interruption in the Court's work this frivolous motion caused. He noted that, in response to this clearly frivolous motion, each of the seven justices had to consider the motion and explain in writing whether and why he or she would continue to participate. The plaintiff now has 14 days to compel the entire court to review each justice's decision and set forth, in writing, whether each of the challenged justices should be disqualified. Justice Markman warned that this was a drain on the Court's resources and delayed the Court's work.

The Court also released Chief Justice Kelly's concurring opinion in *Duncan v. State of Michigan*, Case Nos. 139345-47. Our post on the Court's November 30, 2010 decision to revive this class-action lawsuit concerning state public defenders can be found [here](#). Chief Justice Kelly concurred in the Court's order granting plaintiffs' motion for reconsideration and reinstating the April 30, 2010 Supreme Court order, but chose to write separately to explain the history of the case and address the statements of the dissenting Justices Markman, Corrigan and Young.