

## MSC Order List: November 30, 2010

1. December 2010 By Jeanne Long

On November 30, 2010, the Michigan Supreme Court held one case in abeyance, granted oral argument in one case to determine whether to grant leave to appeal, and amended one order to correct a clerical error. Additionally, the Court granted one motion for reconsideration, and in so doing vacated an earlier order and reinstated an even earlier order because reconsideration of that first order was improperly granted. The Court also granted leave to appeal in three cases and denied leave in a fourth, which are discussed after the jump.

The Court granted leave to appeal in *Michigan v Harris*, [No. 141513](#), *Michigan v Likine*, [No. 141154](#), and *Michigan v Parks*, [No. 141181](#), all of which are to be heard together. In these cases, the Court will consider whether the rule of *People v Adams*, 262 Mich App 89 (2004), which held that the inability to pay is not a defense to the crime of felony non-support under MCL 750.165, is an incorrect reading of the statute or unconstitutional.

The Court denied over a dissent leave to appeal in *Horvath v Johnson et al.*, [No. 139996-7](#). In dissent, Justice Corrigan would have granted leave to appeal to "correct the distortion of a statute that requires notice of lawsuits, threatening the fiscal viability of taxpayer-funded transportation authorities that serve our state's citizens." At issue in *Horvath* is whether a no-fault claim satisfies the notice requirement in MCL 124.419, which requires a person to provide written notice of a tort claim—a fault-based lawsuit—within 60 days of the occurrence. The plaintiff did not provide written notice of a fault-based claim, but did file for no-fault benefits. Below, the Court of Appeals held that the claim for no-fault benefits satisfied the notice requirement in MCL 124.419 and permitted the plaintiff to also pursue a tort action against the State. Justice Corrigan would reverse and hold that a plaintiff's timely application for first-party no-fault benefits is not a written notice of his third-party tort claim.