

MSC Order List: June 15, 2011

17. June 2011 By Julie Lam

On June 15, 2011, the Michigan Supreme Court granted the Governor's request for an advisory opinion regarding the constitutionality of the reduction or elimination of tax exemption for pension incomes in 2011 PA 38. *In re Request for Advisory Opinion Regarding Constitutionality of 2011 PA 38, No. 143157*. Oral argument will be heard on Wednesday, September 7, 2011, at 9:30 a.m. The questions submitted involve whether certain provisions of MCL 206.30, as amended, violate various constitutional provisions including Const 1963, art 9, §§ 7, 24; art 1, § 10; US Const, art I, § 10(1); or the Fourteenth Amendment of the United States Constitution. The Court respectfully requested that the Attorney General submit separate briefs within 56 days of the date of the Order. Persons or groups interested may move the Court for permission to file briefs amicus curiae on either or both sides of the submitted questions.

The Michigan Supreme Court granted the application for leave to appeal in *McCue v O-N Minerals (Michigan) Co, No. 142287*. The parties are ordered to brief whether the Court of Appeals erred when it reversed the grant of summary disposition to the defendant by concluding: (1) that a reasonable trier of fact could find that the defendant owed a duty to the plaintiff because it had used the State highway in a way that either caused the defect at issue or increased the hazard of the defect; and (2) that the plaintiff stated a claim for public nuisance.

The Michigan Supreme Court considered the application for leave to appeal in *Cedroni Associates, Inc v Tomblinson, Harburn Associates Architects & Planners, Inc, No. 142339*, and directed the Clerk to schedule oral argument on whether to grant the application or take other action. At oral argument, the parties are to address whether the Court of Appeals erred when it determined that there are genuine issues of material fact as to: (1) whether the plaintiff had a valid business expectancy, and (2) whether the defendant's communications amounted to intentional and improper conduct sufficient to sustain a claim of tortious interference with a business expectancy. The parties may file supplemental briefs within 42 days of the date of the Order. The motion for leave to file brief amicus curiae was granted, and other persons or groups may move the Court for permission to file briefs amicus curiae.

The Michigan Supreme Court ordered that the application for leave to appeal in *People v Yeakey, No. 142658*, be held in abeyance pending the Michigan Supreme Court's decisions in *People v Pullen* (No. 142751) and *People v Watkins* (No. 142031), which may resolve an issue raised in the application.

The Michigan Supreme Court denied four applications for leave to appeal, including in *People v Jefferson*, No. 141968, where the prosecuting attorney had previously been directed to answer the application.