



## Michigan Supreme Court avoids decision on contentious insurance case

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by Josh Chetwynd

The Michigan Supreme Court heard oral arguments last week on a case involving a fund operated by auto insurance companies, but decided to punt in making a decision that some fear will serve as a political football in the battle to enact statewide no-fault insurance reform.

Coalition Protecting Auto No-Fault v. Michigan Catastrophic Claims Association centers on whether the Michigan Catastrophic Claims Association (MCCA) should be subject to the state's freedom of information act (FOIA). The MCCA was set up by the legislature, but is run by insurance companies to help fund care for victims of catastrophic accidents. The coalition claims that because the association was set up by the state, it should be subject to releasing information like other government entities.

The state supreme court heard the case last Tuesday but rather than rendering a decision, it issued an order on Friday remanding the case back to the court of appeals for further deliberation on whether the MCCA is a "public body."

That order kicks this potentially contentious decision down the road. The court of appeals has a reputation for quick decisions and has been known to decide cases within a couple of months.

But regardless of its decision, either side could appeal to Michigan's highest court again, which could further delay a final ruling.

That said, the delay does not diminish the specter of rancor, depending on the eventual results.

Scott Hummels, Senior VP for Governmental Relations at the Michigan Association of Insurance Agents, fears that if the coalition prevails it will lead to a political firestorm as the ability to use FOIA will allow those disgruntled with the MCCA to dig up elements about how rates are set and shift focus from meaningful reform. If that happened, he sees it leading to headaches for agents.

"What [the plaintiffs] want to know is what all the actuarial assumptions have been to get to the rate they use, and other information regarding specific cases that [the association] doesn't open up to the public," Hummels said. "If that information gets politicized, and they start saying here's why all these assumptions are wrong, it'll be agents who take the brunt of the consumer complaints."