

SUPREME COURT
OF INDIANA



DIVISION OF SUPREME COURT ADMINISTRATION

315 Statehouse • 200 W. Washington St.

Indianapolis, Indiana 46204-2732

(317) 232-2540 • fax (317) 232-8372 • www.in.gov/judiciary

NOVEMBER 2009 SITTING
OF THE INDIANA SUPREME COURT

Thursday, November 12, 2009

9:00 a.m. Caesars Riverboat Casino, LLC v. Genevieve Kephart
31S01-0909-CV-303

Caesars filed an action against Kephart seeking repayment of a gambling debt, treble damages, and attorney fees. Kephart counterclaimed, alleging Caesars unjustly enriched itself by taking advantage of her pathological gambling addiction. The trial court denied Caesars' motion to dismiss Kephart's counterclaim. On interlocutory appeal, a divided panel of the Court of Appeals reversed, holding Kephart did not have a private cause of action against Caesars under these circumstances. Caesars Riverboat Casino, LLC v. Kephart, 903 N.E.2d 117 (Ind. Ct. App. 2009), *vacated*. The Supreme Court has granted a petition to transfer the case and has assumed jurisdiction over the appeal.

9:45 a.m. TRW Vehicle Safety Systems, Inc. v. Sally J. Moore
73S05-0909-CV-404

The Estate of Daniel Moore filed a product liability negligence complaint against Ford Motor Company ("Ford") and TRW Vehicle Safety Systems, Inc. ("TRW"). The jury returned a verdict apportioning fault among Daniel Moore, Ford, TRW, and a nonparty, Goodyear, resulting in damage judgments against Ford and TRW. A majority of the Court of Appeals reversed the jury verdict based on the sufficiency of the evidence. Ford Motor Co. v. Moore, 905 N.E.2d 418 (Ind. Ct. App. 2009), *vacated*. The Supreme Court has granted a petition to transfer the case and has assumed jurisdiction over the appeal.

10:30 a.m. Indiana Patient's Compensation Fund v. Gary Patrick
49S02-0909-CV-402

The Marion Circuit Court entered a judgment allowing Patrick, the father of a patient who died as a result of medical malpractice, to collect from the Fund for damages under the Adult Wrongful Death Statute and for damages attributable to Patrick's own claim for negligent infliction of emotional distress under the "bystander rule." The Court of Appeals affirmed. Indiana Patient's Compensation Fund v. Patrick, 906 N.E.2d 194 (Ind. Ct. App. 2009), *vacated*. The Supreme Court has granted a petition to transfer the case and has assumed jurisdiction over the appeal.

Tuesday, November 17, 2009

**9:00 a.m. Gabino Gonzalez v. State of Indiana
82S01-0909-CR-408**

Gonzalez was intoxicated when the truck he was driving struck a school bus. He wrote a letter to the school corporation admitting he had consumed alcohol and apologizing for the accident. The letter was admitted at trial over Gonzalez's objection, and a Vanderburgh Superior Court jury found him guilty of criminal mischief and operating a vehicle while intoxicated. The Court of Appeals reversed, finding the letter was part of the pre-trial plea negotiations and its admission was reversible error. Gonzalez v. State, N.E.2d (Ind. Ct. App. 2009), *vacated*. The Supreme Court has granted a petition to transfer the case and has assumed jurisdiction over the appeal.

**9:45 a.m. Chawnee Caruthers v. State of Indiana
46S05-0910-CR-431**

Caruthers was convicted of murder after a jury trial in the LaPorte Superior Court. The Court of Appeals reversed the conviction because the trial court had not investigated the possible prejudicial impact that certain threats against the jury may have had on the jury's deliberations. Caruthers v. State, N.E.2d (Ind. Ct. App. 2009), *vacated*. The Supreme Court has granted a petition to transfer the case and has assumed jurisdiction over the appeal.

Tuesday, November 24, 2009

**9:00 a.m. Walker Whatley v. State of Indiana
49S02-0908-CR-379**

A jury found Whatley guilty of possessing cocaine in a quantity in excess of three grams within one-thousand feet of a “youth program center,” a class A felony, *see* Ind. Code § 35-48-4-6(b)(3)(B)(iv). The Marion Superior Court entered judgment accordingly. The Court of Appeals reversed on grounds that Whatley had been near a church, not a youth program center, and directed entry of a conviction as a class C felony. Whatley v. State, 906 N.E.2d 259 (Ind. Ct. App. 2009), *vacated*. The Supreme Court has granted a petition to transfer the case and has assumed jurisdiction over the appeal.

**9:45 a.m. Wells Fargo Bank N.A. v. Brett Gibson
49S02-0910-CV-442**

In this mortgage foreclosure action, the Marion Superior Court granted equitable subrogation to buyers of the property and their lender but denied their requests for interest and a sheriff's sale of the property. The Court of Appeals affirmed in part and reversed in part, holding that the buyers and lender were entitled to statutory interest and a sheriff's sale. Wells Fargo v. Gibson, 905 N.E.2d 465 (Ind. Ct. App. 2009), *vacated*. The Supreme Court has granted a petition to transfer the case and has assumed jurisdiction over the appeal.