

## Michigan Court of Appeals Reinforces Serious Impairment Standard: *A Picture is NOT Worth a Thousand Words*

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A major recurring battle between plaintiff and defendant in bodily injury litigation has historically revolved around one major question: *has the threshold been met?*

Sounds simple enough, but litigating the matter can be surprisingly convoluted: litigators know the arguments, they repeat them and rely on *McCormick* as their “holy grail” in filing and responding to motions for summary dismissal of claims. See *McCormick v Carrier*, 487 Mich 180 (2010). For years, the standard has been perceived as lax; plaintiffs produce any imaging at all and as long as plaintiff testifies that they have *some* impairment and provide *some* testimonial illustrations of a negative effect on their life, even minor life changes, the case lives on to see another day. Defendants have been left frustrated in situations where a plaintiff’s proofs were so lacking that it seemed every case was doomed to proceed to trial based on an alleged genuine issue of material fact in what seemingly amounted to bureaucratise.

This may no longer be the case. The Michigan Court of Appeals is taking a firm stance on the “objectively manifested” requirement, indicating that the courts must draw a hard line between “injury” and “impairment.” In the recently decided case of *Jones v Hammons*, unpublished opinion per curiam of the Court of Appeals issued February 18, 2026 (Docket No. 374665), the Court emphasized that an “impairment” is distinct from an “injury,” and that the statutory inquiry focuses on *how* an injury affects a body function, not simply whether the injury itself appears on an imaging study.

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The Court of Appeals’ decision in *Jones v Hammons* prompts liability carriers to argue that plaintiffs must do more than present MRIs, CT scans, or diagnostic wordsmanship to meet the serious impairment threshold. From a defense perspective, the decision preserves *McCormick* and its progeny as vital, but *Jones* reinforces that plaintiffs cannot satisfy the statute by proving an injury alone. Courts will not infer *functional* impairment from imaging studies or diagnoses without evidentiary support connecting those findings to observable limitations. In keeping the focus on that distinction, insurers can more effectively challenge marginal threshold claims at the summary disposition stage and limit exposure to noneconomic damages.

The *Jones* case involved Plaintiff's bodily injury auto negligence claim arising out of alleged injuries, including spinal and other orthopedic injuries, occurring when Plaintiff was rear-ended by a semi-truck as she attempted to push a disabled vehicle to an exit. Following emergency room treatment and subsequent radiological imaging, Plaintiff received multiple diagnoses, including "C-L RADICULOPATHY," and general "no work" disability scripts with activity restrictions. Plaintiff testified to functional limitations, including difficulty lifting heavy kitchen items, raising her arms overhead to wash and style her hair, moving furniture, checking her blind spot while driving, and even performing a toe touch. Notwithstanding, the Court held that her subjective complaints, without corroborating objective evidence of impairment, were insufficient under MCL 500.3135(5)(a).

The trial court granted summary disposition on threshold injury grounds but found a factual question as to negligence; the Court of Appeals ultimately affirmed dismissal of her claims in their entirety based on her failure to establish a serious impairment of body function. Relying heavily on *McCormick*, the Court of Appeals stressed that an "impairment" is distinct from an "injury," and that the statutory inquiry focuses on how an injury affects a body function—not whether the injury itself appears on an imaging study. The Court further quoted *McCormick's* critical distinction as follows:

Notably, MCL 500.3135(7) does not contain the word "injury," and, under the plain language of the statute, the proper inquiry is whether the *impairment* is objectively manifested, *not the injury or its symptoms* (emphasis added). This distinction is important because "injury" and "impairment" have different meanings. An "injury" is (1) damage of or to a person (2) a wound or other specific damage. "Impairment" is the "state of being impaired," and to be "impaired" means being "weakened, diminished, or damaged" or "functioning poorly or inadequately." These definitions show that while an injury is the actual damage or wound, an impairment generally relates to the effect of that damage. Accordingly, when considering an "impairment," ***the focus "is not on the injuries themselves, but how the injuries affected a particular body function"*** (emphasis added).

*Jones*, 2026 WL 467516, at \*3 (quoting *McCormick*, 487 Mich at 197).

The Court agreed that the statute requires objective manifestation of the impairment but went on to specify that since an impairment is an effect caused by an injury, a plaintiff must produce evidentiary support of the effect, not just the injury. The Court further noted that "the 'objectively manifested' requirement entails that plaintiffs must introduce evidence establishing that there is a physical basis for their subjective complaints of 'pain and suffering' and that showing an impairment generally requires medical testimony." *Id.* (quoting *McCormick*, 487 Mich at 198). The panel concluded:

Absent testimony or documentation explaining how Plaintiff's functional limitations were observed by others, this evidence is insufficient to establish an objectively manifested impairment. *Jones*, *supra* at \*5.

*Jones* held that because Plaintiff failed to produce evidence that her alleged impairment was objectively manifested, she could not meet the first requirement of a serious impairment of body function and therefore could not recover noneconomic damages under MCL 500.3135(3)(b). Having determined that Plaintiff failed one

element of the serious-impairment test, the Court declined to address her remaining appellate arguments concerning causation and effect on her general ability to lead her normal life. The Court affirmed the trial court's granting of summary disposition in favor of the truck driver and his employer, and, because Plaintiff did not challenge the dismissal of her excess economic damages claim under MCL 500.3135(3)(c), her inability to prove a threshold injury was dispositive of all remaining issues.

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