



MICHIGAN SELF-INSURERS' ASSOCIATION

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Gerald M. Marcinkoski
Executive Secretary

Board of Managers

General Motors Corporation
Susan R. Azar
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Ford Motor Company
Jonathan R. Parker
1st Vice Chair

Consumers Energy Company
Doug Wright
2nd Vice Chair

Little Caesar Enterprises, Inc.
C. Michael Healy
Treasurer

City of Grand Rapids
Mari Beth Jelks

Amway
Lorraine K. Climer

Compatico
Libby Child

Wayne State University
Pamela Galloway

AT&T Michigan
Albert Calille

DTE Energy
Douglas A. Green

FinCor Solutions
Janet Kransz

Marathon Oil Company
Barbara Parker

Trinity Health
Susan Cyrulnik

Sherriff-Goslin Company
William Ticknor

Wayne County Airport Authority
Leigh Stepaniak

Kelly Services, Inc.
Lesley Zielinski

MINUTES OF BOARD OF MANAGERS' MEETING

January 9, 2009
Holiday Inn North Campus
Ann Arbor, Michigan

Reminder: Minutes are now only available via e-mail or on the website. If you wish to receive the Minutes via e-mail, please provide your name, company name, and e-mail address to Marianne Melton at mmelton@laceyjones.com

Present:

AZAR, S., General Motors Corporation
CALILLE, A., AT&T Michigan
CHILD, L., Compatico
CLIMER, L., Amway
GALLOWAY, P., Wayne State University
HEALY, M. Little Caesar Enterprises, Inc.
KRANSZ, J., FinCor Solutions
PARKER, B., Marathon Oil Company
PARKER, J., Ford Motor Company
STEPANIAK, L., Wayne County Airport Authority
WRIGHT, D., Consumers Energy Company
ZIELINSKI, L., Kelly Services, Inc.

Chairperson's Council:

SUSSER, D., Smith Haughey Rice & Roegge
ZURVALEC, D., Michigan Manufacturers Association

Not Present:

BLOCK, W., Michigan Chamber of Commerce
CYRULNIK, S., Trinity Health
GREEN, D., DTE Energy
JELKS, M. City of Grand Rapids
TICKNOR, B., Sherriff-Goslin Company
VENET, K., Chrysler LLC

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The meeting was called to order at 11:43 a.m. to discuss the following Agenda:

AGENDA

1. Minutes of Board of Managers' Prior Meeting
2. Treasurer's Report
3. Nominating Committee Report
 - a. Susan Cyrulnik and Trinity Health
 - b. Pepsi vacancy
4. 2009 Spring Conference Committee Report
5. Technology Committee Report
6. Funds Trustees' Report
7. *Amicus Curiae* Committee Report
8. Membership Committee Report
9. Health Care Committee Report
10. Legislative Committee Report
11. Old Business
 - a. Pending appointments to Board of Magistrates
 - b. Summary of RICO case
 - c. Other old business
12. New Business
 - a. David Zurvalec
 - b. Legislative Workers' Compensation 101 Booklets and the MMA
 - c. HB 6601, Michigan Professional Employer Agreement Regulatory Act
 - d. Other new business

The **Minutes** from the Board of Managers prior meeting were reviewed. Changes were suggested with respect to the Health Care Committee Report and Old Business. After the changes were made, the Minutes were approved upon motion of Ms. Child, seconded by Ms. Kransz.

The **Treasurer's Report** was presented by Mr. Healy. He reported the MSIA still has a "healthy bank account," including two certificates of deposit. He reported that the Fall Conference was not as lucrative as the prior year. Mr. Healy provided the Board with a handout of its budget and expenses. The Treasurer's report was approved upon motion of Mr. Wright, seconded by Mr. Calille.

The **Nominating Committee Report** was submitted by Mr. Calille. He reported that Susan Cyrulnik, the former chair of MSIA and Trinity Health's representative on the board, has left Trinity Health. Mr. Calille said it was unclear whether Trinity Health would continue as a member of the Board of Managers. Ms. Azar will contact Trinity Health to ascertain their intentions. Also, with respect to the vacancy created on the Board by Pepsi Bottling Company, Ms. Child advised that she was in the midst of discussions with a prospective company for membership on the board and the discussions were ongoing.

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The **2009 Spring Conference Report** was submitted by Ms. Child. She reported that the preparations for the conference were moving forward. The working title for the conference was "Tools for Tough Times." Given the economy, the registration prices would be lowered to those charged in 2004. Brochures with respect to the conference were projected to be finished in March. The breakout sessions would focus on how to reduce costs and expenses. The conference will include board members discussing best practices in their respective areas. The board discussed continuing to police non-attendeess "crashers", including those at the reception. The Board also discussed possibly paying Denise Pretzer to help at the conference.

The **Technology Committee Report** was submitted by Ms. Child. Ms. Child advised the Board to contact Tom Dana, the webmaster, if the board members had not recently received a note from Tom. The website is presenting information of job seekers in the field. Ms. Child said the membership should look for pictures on the website, in particular older pictures from prior conferences with notable guests. The spring conference information should be posted on the website shortly. Jonathan Parker of the Board of Managers is working with Mr. Dana regarding links to vendors and advertisements. Ms. Child advised the Board that if they wanted something in particular posted by Mr. Dana, he should be sent a work order.

The **Funds Trustees Report** was submitted by Ms. Azar. She reported that the last Funds Trustees meeting was uneventful. The trustees discussed the economy. There have been no additional bankruptcies as of late, but there is obvious concern in that regard. The Board noted that if a company declares bankruptcy but agrees to continue to pay its workers' compensation benefits, (which is more typical than unusual), then that does not trigger the obligations of the Self-Insured Security Fund. Mr. Calille questioned whether the Funds had been overly assessed in the past; the concern was that any excess money in the Funds might be used to support other endeavors.

The **Amicus Curiae Committee Report** was submitted by Mr. Calille and the Executive Secretary. Mr. Calille reported that the MSIA's *amicus curiae* brief in *Petersen v Magna Corporation* has been filed. This is the case on leave granted before the Supreme Court presenting the issue: Can employers be assessed the plaintiff's counsel's fee in relationship to unpaid medical expenses? The Executive Secretary advised that the oral argument in *Petersen* was scheduled for January 22, 2009. Mr. Calille also reported that the MSIA had filed its *amicus curiae* brief in the RICO case, *Brown v Cassens Transport Company* in the federal Sixth Circuit. In this case, the federal appellate court remanded the matter for consideration at trial level as to whether RICO (Racketeering Statute) applied to third party administrators, and employers, and evaluating physicians in workers' compensation matters. The MSIA supported the employer's request for rehearing in the appellate court. Mr. Calille reported that the Sixth Circuit denied the motion. The MSIA is in the process of determining whether the employer, Cassens Transport Company, would appeal to the United States Supreme Court. The Board discussed in detail how application of RICO in such cases might apply equally to plaintiff's attorneys who recommend claimants visit particular evaluating physicians in furtherance of their workers' compensation claims.

The **Membership Committee Report** was submitted by Mr. Healy. He advised that the committee had met earlier in the day prior to the Board of Managers meeting. There, the committee divided amongst themselves the tasks that Ms. Mahan, the prior treasurer, had performed. The Board recognized Ms. Parker's excellent job in the past in cleaning up the MSIA membership list. The Committee decided to

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transfer some tasks to the conference committees. Ms. Stepaniak will act as the keeper of the list of MSIA members. Ms Zielinski will oversee new member applications. The Board then noted a new membership application from Cameron McComb of Conklin Benham as an associate member. He was approved upon recommendation of Mr. Calille, seconded by Ms. Parker. The membership committee resolved to meet prior to the regular board meeting in February.

The **Health Care Committee Report** was submitted by Ms. Azar. She reported that the Health Care Committee had agreed to increase the "conversion factor." But, even so, overall fees should decline. There continued to be an issue about the vacant employer/carrier seat on the committee. There is now also a provider vacancy as well. Director Nolish had indicated that he had a replacement in mind and was awaiting approval. Ms. Azar said the Committee had discussed the payment methodology for free standing facilities, but it does not appear as though that idea is moving forward.

The **Legislative Committee Report** was presented by Mr. Zurvalec of the Michigan Manufacturers Association. He advised that, as a result of the last state election, Democrats now hold a large majority in the House of Representatives. The Senate still has a Republican majority. Mr. Zurvalec foresaw efforts to relax requirements for obtaining unemployment compensation benefits. The Executive Secretary drew the Board's attention to the recent order from the Michigan Supreme Court in *Sazima v Shepherd Bar and Restaurant*. This is a Supreme Court order where the Court reversed the ruling of the Workers' Compensation Appellate Commission. The Court denied the claimant benefits for an injury on a public street while walking from a parking lot not provided by the employer. The Executive Secretary also advised the Board that a bill to change Michigan's jurisdiction over work injuries occurring outstate had passed the legislature and it was sent to the Governor to be signed.

Under **Old Business**, the Board discussed the pending appointments to the Board of Magistrates, including incumbents and potentially new members. The Board noted it had already discussed the RICO case and there was no other old business to discuss.

Under **New Business**, the Chair, Susan Azar, presented Mr. David Zurvalec with a plaque in appreciation for his years of service as the Michigan Manufacturers Association's representative at MSIA meetings and conferences. Mr. Zurvalec is retiring from the MMA. His expertise and devotion to the Michigan employer community has been exceptional over the years. He and his organization provide a vital link for coordinated efforts on workers' compensation issues, when necessary. The Board then discussed the preparation of a new workers' compensation booklet for legislators, as had been prepared and compiled by the MMA in the past. Mr. Zurvalec advised that Mr. Charles E. Hadden is the person to contact to determine the MMA representative and MMA's role after Mr. Zurvalec's retirement. Mr. Zurvalec said there has been no replacement named for him yet. Mr. Zurvalec suggested that Amy Shaw would work on any forthcoming booklet for legislators. Mr. Zurvalec suggested the booklet be placed on a PDF format and then sent to the MMA. Mr. Zurvalec was unsure whether MMA would pay the cost for preparation and distribution of the booklet.

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Under **Other New Business**, HB6601 the Michigan Professional Employer Agreement Regulatory Act, was not passed prior to the expiration of the legislative session. It would need to be reintroduced in the new legislative session.

The meeting was then adjourned upon motion of Mr. Calille seconded by Mr. Wright at 4:20 p.m.

Respectfully submitted,

Gerald M. Marcinkoski

Gerald M. Marcinkoski
Executive Secretary