



MICHIGAN SELF-INSURERS' ASSOCIATION

600 SOUTH ADAMS ROAD, SUITE 300 • BIRMINGHAM, MI 48009-6827 • (248) 433-1414 • FAX (248) 433-1241

www.michselfinsurers.org

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Albert Calille

DTE Energy
Douglas A. Green

FinCor Solutions
Janet Kransz

Marathon Oil Company
Barbara Parker

Trinity Health
Teresa Fisk

Sherriff-Goslin Company
William Ticknor

Wayne County Airport Authority
Leigh Stepaniak

Kelly Services, Inc.
Lesley Zielinski

MINUTES OF BOARD OF MANAGERS' MEETING

March 13, 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
GREEN, D., DTE Energy
KRANSZ, J., FinCor Solutions
MERRICK, C., Trinity Health – present on behalf Teresa Fisk
PARKER, B., Marathon Oil Company
PARKER, J., Ford Motor Company
STEPANIAK, L., Wayne County Airport Authority
TICKNOR, B., Sheriff-Goslin Company
WRIGHT, D., Consumers Energy Company
ZIELINSKI, L., Kelly Services, Inc.

Chairperson's Council:

BLOCK, W., Michigan Chamber of Commerce
JOHNSTON, M., Michigan Manufacturer's Association
SUSSER, D., Smith Haughey Rice & Roegge

Not Present:

HEALY, M., Little Caesar Enterprises, Inc.
JELKS, M., City of Grand Rapids
LEVINS, N., Chrysler LLC

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The meeting was called to order at 11:39 a.m. to discuss the following Agenda:

AGENDA

1. Minutes of Board of Managers' Prior Meeting
2. Treasurer's Report
3. Nominating Committee Report
4. 2009 Spring Conference Committee Report
5. Membership Committee Report
6. Funds Trustees' Report
7. Technology Committee Report
8. *Amicus Curiae* Committee Report
9. Health Care Committee Report
10. Legislative Committee Report
11. Old Business
 - a. Status of RICO case
 - b. Questions relating to outstate injury provision
 - c. MSIA/MMA's WC 101 Booklet
 - d. Other old business
12. New Business
 - a. Medicare reporting requirement
 - b. Composition of Fall Conference Committee
 - c. Other New Business

The **Minutes** from the prior meeting were amended per request by Mr. Wright. Amendments were made after which the Minutes were approved upon motion of Mr. Wright, seconded by Ms. Zielinski.

The **Treasurer's Report** submitted by Mr. Healy prior to the meeting was unanimously approved upon motion of Mr. Green, seconded by Ms. Child.

The **Nominating Committee Report** was submitted by Mr. Calille. He advised that a new representative from Trinity Health, Teresa Fisk, will be replacing Sue Cyrulnik on the Board. Ms. Charlene Merrick was present on behalf of Ms. Fisk who had a conflict for this meeting.

Additionally, Michael Johnston was present on behalf of the Michigan Manufacturer's Association (MMA). In light of Mr. Zurvalec's retirement from MMA, Mr. Johnston will assume Mr. Zurvalec's seat on MSIA's Advisory Council. Mr. Johnston indicated that Mr. Zurvalec had encouraged him to retain MMA's presence on the Advisory Council and spoke highly of MMA's relationship with MSIA. On behalf of the Board, Mr. Calille welcomed Mr. Johnston.

Mr. Calille also advised that a representative from a major retailer was considering a Board position.

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The **2009 Spring Conference Report** was submitted by Ms. Child. She indicated that conference plans were moving along very well, and actually ahead of schedule. She reported that the brochure for the conference would be printed by March 18, 2009. She indicated that if any Board member would like extra copies, they should please contact Denise Pretzer by email. Ms. Child indicated that all speakers are confirmed. She indicated that MSIA was able to enlist Doug Holmes to speak on national workers' compensation issues through Ms. Susser's efforts. Ms. Child advised that MSIA would be hiring an organization through the hotel to be monitoring that all MSIA attendees be wearing name badges. In order to be in an area from any MSIA sponsored event, members will be required to wear their name badge. If someone does not have a badge, they will be graciously asked to please leave and get their badge, or, if they do not have one, where they can register for the conference.

Ms. Kransz advised that there has been an enormous response to vendor sponsorships this year. So far, 30 of the 47 available booths have been filled.

Ms. Droblich, present at the Board on behalf of the Executive Secretary, reported that 4 of the 18 golf holes have been sponsored. The Board approved Ms. Droblich sending out letters to past hole sponsors to encourage hole sponsorship. The Executive Secretary had written a letter to attorney Michael Brenton apologizing for any confusion over the 2009 wine tour. It was discussed that the Board will re-visit the wine tour issue for 2010 and in succeeding years in light of law firms and other vendors offering to sponsor the wine tour and pay for the entire cost. It was noted that paying for the costs of the tour is viewed as a benefit to MSIA's membership, making the event not only fun but free. Mr. Brenton has been sending the money he collected for the wine tour to the MSIA. There have been offers to do a boat tour by other vendors as well.

There was additional discussion with Ms. Stepaniak about providing MSIA Spring Conference attendees a membership list. It is believed that on occasion, members have come to events not realizing that their dues are not current and that they are, therefore, not active members. Ms. Susser will facilitate a "Meet the Board" session at the Conference. New members to the Board are encouraged to visit the MSIA website and provide biographical information, and a picture to Ms. Child.

Additionally, pertaining to registration for the Spring Conference, the Board was advised that if they are not on the 2009 Spring Conference Committee, they are to register with both the hotel and the Conference. Additionally, if anyone on the Board needs to put a person on the list of speakers for the conference, please do not contact the hotel directly, but instead call Denise Pretzer, as she will put the attendee on the master list.

It was further noted that the Governor's Ballroom will be used this year in lieu of the Trillum for the DJ sponsored events. The package for the Conference will be put together by Board Members early afternoon Wednesday, May 27, 2009. Marianne Melton will be in charge of registration at the 2009 Conference with Committee Members taking turns to assist her. The Board was asked to take turns at either registration or at the marketing booth. It was noted that Ms. Pretzer has done a great job with the Spring Conference brochure and preparing the conference materials. Thanks were also extended to Mr. Wright for all the assistance he has done on the brochure.

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The **Membership Committee Report** was submitted by Ms. Zielinski. She noted Ms. Stepaniak has done an excellent job of identifying new prospects for membership to MSIA. The following new members were unanimously approved upon motion by Mr. Calille, seconded by Ms. Parker: Prosure Fund; Encompass Healthcare; Specialistic Construction; Jerry Newman of Kopka, Pinkus, Dolin & Eads, as an associate member; and ASU Group.

The **Funds Trustees Report** was submitted by Ms. Azar. The Board was made aware of Mr. Dennis Stinson's recent retirement.

The **Technology Committee Report** was submitted by Ms. Child and Mr. Parker. Mr. Parker indicated Mr. Wright has been of great assistance to the Committee. Mr. Parker reported the website is active and vibrant, receiving approximately 200 hits per day. Per Mr. Parker, he handles inquiries as they come up and responds as quickly as possible. It was requested that Ms. Marianne Melton update new information of new members to the Board and circulate it to the Board. Accordingly, please provide her with all updated information.

The **Amicus Curiae Committee Report** was submitted by Mr. Calille. Mr. Calille reported that oral arguments were heard in the *Petersen v Magna Corporation* at the Supreme Court. A decision by the Supreme Court is expected any time from now until July 31, 2009 when the Supreme Court's present term ends. This is the case where the employer was assessed plaintiff's counsel's fees on unpaid medical expenses. Ms. Droblich advised that the *RICO* case, *Brown v Cassen's Transportation* was appealed to the U.S. Supreme Court. She indicated that the MSIA did participate in an *amicus* brief to the 6th Circuit, and that, per the request of the Executive Secretary, MSIA should consider continuing with *amicus curiae* support at the Supreme Court. Mr. Calille indicated he wants to see what issues the defense attorney is arguing before the Supreme Court before making a decision on the *amicus curiae* Brief. The decision was deferred to next month's meeting. Mr. Calille requested the Executive Secretary provide him the information before next month's meeting. Additionally, the Supreme Court rejected the application for leave to appeal in *Romero v Burt Moeke Hardwoods Inc.* MSIA had submitted an *amicus curiae* brief in this case.

The **Health Care Committee Report** was tabled, as Ms. Azar indicated there have been no meetings.

The **Legislative Committee Report** was submitted by Ms. Block. She indicated there has been no action on the Qualifications Advisory Committee (QAC) bill which had been introduced as Senate Bill No. 60 by Senator Jansen. She indicated that other issues regarding the stimulus package have taken precedence over this and other bills. She indicated in other news that Doug Holmes is trying to move forward on the Reforms to Medicare Secondary Payor Act, HR 2549. He is looking for Republican co-signers. She indicated it would be helpful if the defense bar and MSIA contact Rep. Camp's office to assist in identifying Republican sponsors for the bill on the Ways and Means Committee. Ms. Block indicated she will forward on an e-mail to the Board pertaining to the matter. Ms. Susser indicated that both defense and plaintiff attorneys of the Workers' Compensation Section of the Bar are working together for this reform.

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Mr. Johnston advised that the state is considering reverting to the Federal OSHA regulatory body and dissolving MIOSHA. Per Ms. Block and Mr. Johnston, there is ongoing discussion pertaining to problems which may arise for small employers if new "ergonomic rules" are mandated. This would require small employers to establish a training program and compile reports for injuries that have occurred. It was discussed how this could foreseeably be an enormous burden on smaller employers who would have to hire consultants for ergonomic purposes. Ms. Block advised that it is the Michigan Chamber's position that unless this "ergonomics rule" is abandoned, the Chamber will support reverting to OSHA. MMA has not yet taken a position.

Under **Old Business**, the Board discussed the statutory change to the outstate injuries and MCL 418.845. Designed to counteract the ruling in *Karaczewski v. Farbman Stein & Co.*, the legislature changed § 845 to say that Michigan's jurisdiction extends to injuries occurring outside the State of Michigan where the employee is employed under a contract of hire made in Michigan, or the employee is a resident of Michigan at the time of injury. There had been some unexpected consequences which have arisen since the passage of § 845. The Board discussed how this might potentially discourage employers outside of Michigan to hire a Michigan employee because this might expose them to workers' compensation liability in Michigan. Additionally, there was a potential constitutional due process concern wherein it would expose an outstate employer to Michigan law just by the nature of hiring a Michigan employee.

Per Mike Johnston, the MSIA/MMA's WC 101 booklet should be ready for completion by the end of April. Upon motion by Mr. Calille and seconded by Ms. Zielinski, the Board approved payment. The MSIA will have their own logo on the brochure along with the MMA. Shipping charges were also approved by the Board unless the Executive Secretary graciously agrees to pick up the booklets. The Executive Secretary is to provide the proposed text of the booklet to the Board by April 8, 2009. Any potential changes must be submitted to the Executive Secretary for his submission to Mr. Johnston of the booklet by April 15, 2009. Ms. Child recommended we put the booklet on the website in PDF format to alleviate some costs should any member want a copy of the booklet.

In other **Old Business**, Ms. Azar provided the Board with a copy of an e-mail from Magistrate Gorchow regarding bifurcated redemptions. Additionally, Ms. Droblich advised that the *Stokes v Chrysler* case is back on remand and will be heard by Magistrate Wolock on March 23, 2009. Finally, the *Lofton v Auto Zone* case has been heard by Magistrate Wolock whose decision was submitted to the Supreme Court. A ruling from the Supreme Court is expected between now and July 31, 2009.

Under **New Business**, the Board was provided by Ms. Droblich with a handout of the Medicare Secondary Payor (MSP) Mandatory Insurer Reporting Requirements of § 111 of the Medicare Medicaid and SCHIP Extension Act of 2007. Mr. Wright indicated that he has an extensive folder of materials outlining all Medicare discussions to date on the topic. He advised the Board that all information can be found on the Medicare website. Per the request of Ms. Child, Ms. Droblich provided that all information and official instructions for § 111 and its implementation, including data reporting procedures, can be found on the CMS designated website <http://www.cms.hhs.gov/MandatoryInsRep>.

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Ms. Parker and Mr. Wright expressed concern about companies' awareness of reporting requirements and implementation timelines. The Board was provided with with an implementation timeline dated September 5, 2008 outlining Group Health Plan (GHP) reporting requirements, as well as liability insurance (including self-insurance), no fault insurance, and workers' compensation reporting requirements. It was urged that all members check the Medicare website to ensure they are using the most recent revisions, and to note updated implementation guidelines. The rules are evolving, but employers would be well advised to start thinking of how they will collect beneficiary information. Concern was expressed about the enforcement of the \$1,000.00 per day per file penalty. Ms. Child requested that when you hear about a seminar on Medicare, please let other members know the date and time.

The Board also discussed the Fall Conference Committee. Mr. Wright is the Chair of the Committee. The Committee members for the 2009 Fall Conference Committee include: Ms. Zielinski, Mr. Parker, Ms. Climer, Ms. Kranz, Ms. Susser, Ms. Azar, Ms. Parker, and Ms. Child.

Under **Other New Business**, Mr. Ticknor questioned Mr. Johnston and Ms. Block pertaining to any information they had regarding the issue of mismatched social security numbers.

The Board then adjourned at 4:26 p.m.

Respectfully submitted,

Dawn M. Droblich

Dawn M. Droblich,
For Gerald M. Marcinkoski
Executive Secretary