



MICHIGAN SELF-INSURERS' ASSOCIATION

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

Consumers Energy Company
Doug Wright
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Mari Beth Jelks

Amway
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Compatico
Libby Child

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Pamela Galloway

AT&T Michigan
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

Meijer
Sherri Miller

MINUTES OF BOARD OF MANAGERS' MEETING

April 17, 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.
JELKS, M., City of Grand Rapids
KRANSZ, J., FinCor Solutions
MERRICK, C., Trinity Health – present on behalf Teresa Fisk
PARKER, B., Marathon Oil Company
PARKER, J., Ford Motor Company
WRIGHT, D., Consumers Energy Company
ZIELINSKI, L., Kelly Services, Inc.

Chairperson's Council:

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

Not Present:

GREEN, D., DTE Energy
LEVINS, N., Chrysler LLC
STEPANIAK, L., Wayne County Airport Authority
TICKNOR, B., Sheriff-Goslin Company

MICHIGAN SELF-INSURERS' ASSOCIATION

Page 2
April 17, 2009

The meeting was called to order at 11:42 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. 2009 Fall Conference Committee Report
6. Membership Committee Report
7. Funds Trustees' Report
8. Technology Committee Report
9. *Amicus Curiae* Committee Report
10. Health Care Committee Report
11. Legislative Committee Report
12. Old Business
 - a. MSIA/MMA WC 101 Booklet
 - b. Outstate injury provision
 - c. Bifurcated redemptions
 - d. Other old business
13. New Business
 - a. HR 635 (federal direction of state workers' compensation systems?)
 - b. RICO Appeal
 - c. *Sazima v Shepherd Bar and Restaurant*
 - d. Medicare/CMS
 - e. Other new business

Changes were made to the **Minutes** of the prior meeting, after which they were approved upon motion of Mr. Wright seconded by Ms. Parker.

The **Treasurer's Report** was submitted by Mr. Healy. He reported a "healthy balance" in MSIA's account. He plans to renew a certificate of deposit. The Board agreed to join the UWC again. The Treasurer's report was then passed upon motion of Ms. Zielinski, seconded by Mr. Wright.

The **Nominating Committee Report** was submitted by Mr. Calille. Mr. Calille moved to add Meijer to the Board of Manager with Sherri Miller to be Meijer's designated representative on the Board. Mr. Calille's motion was seconded by Mr. Healy and approved by the Board. Ms. Zielinski reported that MSIA has three new members: Meijer, Hostetler Fontaine & Associates, and Infoquest, all were admitted to MSIA upon motion of Mr. Calille, which was seconded by Mr. Healy.

The **2009 Spring Conference Report** was submitted by Ms. Child and Mr. Parker. Ms. Child reported that everything was on target for a successful Spring Conference. Ms. Parker clarified that the board members' conference fees are "comped" by MSIA. Also if a person works on a committee for a MSIA conference, then they are comped too. Significant others and family members of all board members are

MICHIGAN SELF-INSURERS' ASSOCIATION

Page 3

April 17, 2009

also comped. For registration purposes, board members must tell the spring conference committee if they plan on attending the conference in order to be registered. Finally, all speakers at the conference are also comped. Ms. Child and Mr. Parker urged board members to help out at the registration.

The **2009 Fall Conference Report** was submitted by Mr. Wright. The Fall Conference will occur on October 22, 2009 at the Rock Financial Showplace. Mr. Wright asked for the Board's suggestions for speakers, content, and theme. One suggested theme or topic for the conference was Medicare/CMS issues. Ms. Pretzer's services will be used for the fall conference and the board indicated it would revisit her pay level. Besides Mr. Wright, the Fall Conference Committee consists of: Ms. Child, Ms. Pretzer, Ms. Kransz, Ms. Stepaniak, Mr. Parker, Ms. Zielinski, Ms. Parker and Ms. Susser. Mr. Wright reported that the sentiment was to keep essentially the same layout as at the last fall conference while, at the same time, address the concerns of the vendors and attendance issues.

The **Membership Committee Report** was submitted by Ms. Child, Mr. Healy and Ms. Zielinski, who reported that on June 12, 2009 there will be a membership committee meeting at 9:30 a.m. Mr. Wright discussed the question of MSIA sharing its list of members, with the Board resolving that our lists are not to be made available to other members.

The **Funds Trustees Report** was submitted by Ms. Azar, who reported that the next meeting of the Funds Trustees would take place on the following Monday.

The **Technology Committee Report** was submitted by Ms. Child. She reported that the website was putting up the spring conference information. Mr. Parker indicated that Lexis/Nexis wants to place a link for workers' compensation issues. A blog is also still a possibility.

The **Amicus Curiae Committee Report** was submitted by Mr. Calille and the Executive Secretary. Mr. Calille reported that the case where MSIA had filed an *amicus curiae* brief urging the Supreme Court grant the employer's appeal, *Romero v Burt Moeke Hardwoods Inc.*, resulted in a denial of leave. The Executive Secretary reported on the status of *Cassens Transport Company v Brown*, the RICO case. The case has been appealed to the United States Supreme Court. Mr. Calille and the Executive Secretary discussed conversations with the the National Council of Self-Insurers, who had expressed an interest in a multi-party *amicus curiae* brief. Mr. Calille recommended that MSIA do its own brief, especially because the case is a Michigan case dealing with Michigan's workers' compensation law. Mr. Calille said that the MSIA brief should address both issues presented in the case, that Mr. Critchell would be assigned the task of doing the *amicus curiae* brief for a fee of \$2,000.00 plus costs, and that Mr. Critchell was to check with the National Counsel and the attorney for the defendant in the case prior to filing the *amicus curiae* brief for MSIA. Ms. Parker seconded Al Calille's recommendation for an *amicus curaie* brief and the Board approved.

The **Health Care Committee Report** was submitted by Ms. Azar. She reported that the committee met the prior week. A new member of that Committee is Holly Secord from Citizens Management. Among the issues discussed were freestanding surgical centers, whether Michigan's fees were too inexpensive as suggested by the Director, and chiropractors' concerns. Ms. Azar indicated that the discussion of

MICHIGAN SELF-INSURERS' ASSOCIATION

Page 4

April 17, 2009

evidence-based medicine has apparently been abandoned with the committee being told it is not within its jurisdictional scope. Ms. Azar further indicated that the Director is revising the health care pamphlets and there may be discussion of a new methodology for determining the fee schedule.

The **Legislative Committee Report** was submitted by Ms. Block. She reported that the Legislature is on spring break. The House had passed legislation relating to a cancer presumption for firefighters, which the Chamber of Commerce opposed. In the Senate, there had yet to be a hearing on the Senate bill requiring advise and consent for appointments to the Workers' Compensation Advisory Committee. Ms. Block indicated that the legislative focus seems to be fixed on the budget and stimulus. Ms. Spike reported that an executive order from the Governor regarding budget cuts was a possibility. The Executive Secretary spoke to proposals by the Supreme Court to change the court rules in certain respects.

Under **Old Business**, the Board discussed potential problems with the out state injury provision, but decided to take a "wait and see" approach. The Board reviewed the proposed MMA/MSIA booklet making certain minor changes made. The Board then discussed Magistrate Gorchow's memorandum with respect to bifurcated Medicare redemptions, with the Agency backing away from that procedure.

Under **Other Old Business**, Ms. Child drew the Board's attention to the "Workability Summit" that was upcoming and encouraged the Board's attendance.

Under **New Business**, the Board discussed HR 635, a proposal in the United States House of Representatives that implied a type of "nationalization" of state workers' compensation systems. The bill calls for a study of state workers' compensation systems to determine their adequacy. The UWC has encouraged companies and organizations to send letters to their elected representatives in Washington to advise them this bill is not a good idea.

Next, the Board indicated it had already discussed the status of the RICO case.

The Executive Secretary then advised the Board of the recent release of the case *Sazima v Shepherd Bar and Restaurant*, a case where the "new" Supreme Court changed its mind on a workers' compensation case where the person was walking to work and now has allowed for benefits.

With regard to Medicare/CMS issues, Ms. Susser indicated that the focus in Washington is to reintroduce legislation to address problems with CMS/Medicare Set-Asides.

Under **Other New Business**, Mr. Calille reported that he had an inquiry from a company that is an associate member of MSIA as to whether or not they could become a member of the MSIA Board. Mr. Calille explained that the Constitution requires that MSIA Board Members be active full members, as opposed to associate members. Mr. Calille did suggest as a point of future discussion such questions as whether Associate Members should be permitted to sit on the MSIA Board. The consensus, right now, was the answer should be no.

MICHIGAN SELF-INSURERS' ASSOCIATION

Page 5
April 17, 2009

The meeting was then adjourned upon motion of Ms. Child, seconded by Mr. Calille at 4:44 p.m.

Respectfully submitted,

Gerald M. Marcinkoski

Gerald M. Marcinkoski
Executive Secretary