



# MICHIGAN SELF-INSURERS' ASSOCIATION

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**Gerald M. Marcinkoski**  
Executive Secretary

**Board of Managers**

**General Motors Corporation**  
Susan R. Azar  
Chairperson

**Ford Motor Company**  
Jonathan R. Parker  
1<sup>st</sup> Vice Chair

**Consumers Energy Company**  
Doug Wright  
2<sup>nd</sup> Vice Chair

**Iitich Holdings, 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**  
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

July 10, 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](mailto:mmelton@laceyjones.com)**

### Present:

CALILLE, A., AT&T Michigan  
CLIMER, L., Amway  
FISK, T., Trinity Health  
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  
WRIGHT, D., Consumers Energy Company  
STEPANIAK, L., Wayne County Airport Authority  
TICKNOR, B., Sheriff-Goslin Company

### Not Present:

AZAR, S., General Motors Corporation  
BLOCK, W., Michigan Chamber of Commerce  
CHILD, L. Compatico  
GREEN, D., DTE Energy  
JELKS, M., City of Grand Rapids  
LEVINS, N., Chrysler LLC  
SPIKE, J., Michigan Manufacturer's Association  
SUSSER, D., Smith Haughey Rice & Roegge  
ZIELINSKI, L., Kelly Services, Inc.

The meeting was called to order at 11:42 a.m. to discuss the following  
Agenda:

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### AGENDA

1. Minutes of Board of Managers' Prior Meeting
2. Treasurer's Report
3. Nominating Committee Report
4. Funds Trustees' Report
5. *Amicus Curiae* Committee Report
6. Technology Committee Report
7. 2009 Final Spring Conference Committee Report
8. 2009 Fall Conference Committee Report
9. Health Care Committee Report
10. Legislative Committee Report
11. Membership Committee Report
12. Old Business
  - a. HR 635
  - b. MSIA/MMA Booklet
  - c. Other Old Business
13. New Business
  - a. Bankruptcies
  - b. *Lofton* fiasco
  - c. Misclassification of employees
  - d. Recusals on Michigan Supreme Court?
  - e. WCRI Study
  - f. Other New Business

The meeting was conducted by Mr. Parker, 1<sup>st</sup> Vice Chair, given the absence of Chairperson Azar. The meeting began with Mr. Parker asking everyone to identify themselves, given that this was Sheri Miller of Meijer's first Board Meeting.

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

The **Treasurer's Report** was submitted by Mr. Healy. Mr. Healy indicated that finances were not as healthy as last month. An outstanding bill from the Grand Traverse Resort is still due and owing. Mr. Healy projects a negative cash flow for the current year. Mr. Healy indicated that the Spring Conference broke even or made a small amount of money. Mr. Healy identified the primary problem as dues. Mr. Healy's Treasurer's report was approved upon motion of Mr. Calille, 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 and the Executive Secretary discussed the need for the formality of name changes for Chrysler and General Motors, given their emergence from bankruptcy. Mr. Healy then explained that technically he works for Ilitch Holdings, as opposed to Little Caesars. Upon motion of Mr. Calille, seconded by Ms. Parker, the Board recognized that name change.

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The **Funds Trustees Report** was tabled given Ms. Azar's absence.

The **Amicus Curiae Committee Report** was submitted by Mr. Calille. He advised the Board that MSIA's *amicus curiae* brief has been filed in *Cassens Transport v Brown*, the RICO case before the United States Supreme Court. The Executive Secretary then drew the Board's attention to a recent *en banc* case issued by the Workers' Compensation Appellate Commission: *Trammel v Consumers Energy*. An *en banc* case is a case decided by all five commissioners, rather than a decision of a panel of three commissioners. It sets a precedent in the state. In *Trammel*, the Commission held that two Court of Appeals cases, which said that implants are to be considered in evaluating the usefulness of body members in specific loss cases, are not controlling. Instead, the Commission held that in implant cases the usefulness of the body member (such as a leg) is to be evaluated by the Magistrate as if the implant were not there. The Board discussed the ramifications of the case. The Board then resolved to pay \$1,000.00 to Mr. Critchell to file an *amicus curiae* brief in support of Consumer's Energy's application for leave to appeal in the Court of Appeals.

The **Technology Committee Report** was submitted by Mr. Parker. He advised that the Lexis/Nexis link has been added to the MSIA's website's educational portion.

The **2009 Final Spring Conference Report** was submitted by Mr. Parker. He reported that attendance at the conference was down, but not by much. The Board discussed the new security measures taken at the conference. Mr. Healy noted that nine attendees who had not pre-registered, came to the conference and said "bill me later," with five of such bills remaining outstanding.

The **2009 Fall Conference Report** was submitted by Mr. Wright. Mr. Wright indicated that the Fall Conference Committee had met earlier in the morning and they had met as well on June 11<sup>th</sup>. Mr. Wright reported that the theme of the conference was still undecided. He has confirmed Doug Holmes to speak at the conference on Medicare issues, including Medicare reporting. There will be members of the Agency appearing and the Executive Secretary will present the legal update. The conference will take place at the Rock Financial Showplace. Costs and vendor arrangements were still being worked on. A "Save the Date" feature has been added to the website. Credits for continuing education are in the process of being approved. The conference will occur on October 22, 2009 at the Rock Financial Showplace. The Board Meeting will take place the day before at 4:00 p.m., with the Conference Committee meeting at 3:00 p.m. Mr. Wright said that for this particular conference the Board will be looking to limit the number of sponsor vendors so as to afford them more recognition. Brochures for the conference are to be mailed out in early September. The Board discussed teaming up with PRIMA (and perhaps RIMS) for future Fall Conferences. The MSIA will afford attendees options for hotels in the area with good rates. Mr. Wright indicated that Mr. Holmes would be invited to dinner the night before in conjunction with the Board Meeting. He is to be invited to arrive at 6:00 p.m. or 6:30 p.m., after the business meeting will have concluded.

The **Health Care Committee Report** was tabled due to Ms. Azar's absence.

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The **Legislative Committee Report** was submitted by the Executive Secretary. He reported that the Qualifications Advisory Committee had recommended six persons to the Governor for two positions on the Workers' Compensation Appellate Commission that will be opening in the Fall. The Executive Secretary also discussed the imminent departure of Chairperson Martha Gasparovich from the Appellate Commission. She will be leaving to assume as position as a Social Security Judge. The Executive Secretary also pointed out that within the Board's handouts was a short biography of "Skip" Pruss, Director of the Michigan Department of Energy, Labor and Economic Growth.

The **Membership Committee Report** was submitted by Mr. Healy. He indicated that the Committee had held a meeting last month. Ms. Zielinski had made changes to the MSIA brochure. Mr. Healy distributed to the Board a selection of pictures to be chosen to be printed on the first page of the brochure. Mr. Healy explained that the object of the brochure is to increase membership in the MSIA. Mr. Healy also explained how the committee has been calling self insured companies in Michigan from a list of Michigan Self-Insureds and would like all Board Members to be involved in that project. This project will ideally be completed by August of this year.

Under **Old Business**, the Board discussed HR 635, which is the bill suspected to be an attempt to "nationalize" workers' compensation. The Executive Secretary reported that the MSIA has voiced its opposition to the bill. The Board then discussed the joint MSIA/MMA booklet that has already been prepared. The Board resolved to contact the MMA to see if they have an efficient, inexpensive means to provide the booklets to Michigan State legislators.

There was no **Other Old Business**.

Under **New Business**, the Board discussed the recent bankruptcies of Chrysler and General Motors. The Board also discussed the impact of a bankruptcy at Delphi on the Self Insured Security Fund. And, the Board then discussed the *Lofton* fiasco. The latter is the result of the Supreme Court issuing an order on June 17, 2009 returning the *Lofton* case to the Workers' Compensation Appellate Commission. Although the order was released to the Workers' Compensation Appellate Commission, it was not sent to the attorneys of record. The Supreme Court's Clerk's office "pulled" the order. The Supreme Court Clerk's office indicated that the matter is still under consideration there. The Board discussed what steps might be taken if the Supreme Court should issue an order that is any different from the order issued in the case on June 17, 2009. In conjunction with this, the Board also discussed the possibility of recusals of Michigan Supreme Court Justices. [The Supreme Court has – since the Board Meeting - reissued an order in *Lofton* a month later that, in substance, is the same as the original order; the only difference is the votes of the Justices].

The Executive Secretary then drew the Board's attention to a federal discussion on the misclassification of "employees", along with a handout to that effect. Mr. Ticknor, whose business is involved with independent contractors frequently, explained how there is a competitive disadvantage to employers who "play by the rules" and have their workers designated and treated as "employees", as opposed to others who maintain that they only use independent contractors all of the time. The Executive Secretary also

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provided the Board with a handout from the Michigan Compensation Research Institute. The handout was a summary of outcomes for injured workers in various states. The Research Institute concluded "that the Michigan workers' compensation system provides a better value proposition for Michigan workers' and their employers" when compared to other states. The Board indicated how this finding should be publicized and placed on MSIA's website given that prior Research Institute's memoranda were somewhat critical of Michigan's system.

The Board then discussed HR 2641, the latest Medicare Federal bill aimed at revising and fixing some of the problems with Medicare.

Under **Other New Business**, Mr. Healy indicated that Travelers Insurance Company has closed their claims office in Michigan. The Board also noted a new member, the Hylant Group, who has paid their dues and was admitted to MSIA upon motion of Mr. Calille and seconded by Ms. Parker.

The Board then was moved to adjourn by Mr. Calille, seconded by Mr. Healy, and the meeting was adjourned at 4:44 p.m.

Respectfully submitted,

*Gerald M. Marcinkoski*

Gerald M. Marcinkoski  
Executive Secretary