



MICHIGAN SELF-INSURERS' ASSOCIATION

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Gerald M. Marcinkoski
Executive Secretary

Board of Managers

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

Consumers Energy Company
Doug Wright
2nd Vice Chair

Illitch Holdings, Inc.
C. Michael Healy
Treasurer

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Mari Beth Jelks

Amway
Lorraine K. Climer

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

November 20, 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 LLC
CALILLE, A., AT&T Michigan
CLIMER, L., Amway
FISK, T., Trinity Health
GALLOWAY, P., Wayne State University
GREEN, D., DTE Energy
HEALY, M. Illitch Holdings, Inc.
KRANSZ, J., FinCor Solutions
MILLER, S., Meijer
PARKER, B., Marathon Oil Company (by phone)
PARKER, J., Ford Motor Company
WRIGHT, D., Consumers Energy Company

Chairperson's Council:

BLOCK, W., Michigan Chamber of Commerce
SUSSER, D., Smith Haughey Rice & Roegge

Not Present:

CHILD, L., Qualifications Advisory Committee
JELKS, M., City of Grand Rapids
LEVINS, N., Chrysler Group LLC
SPIKE, J., Michigan Manufacturer's Association
STEPANIAK, L., Wayne County Airport Authority
TICKNOR, B., Sherriff-Goslin Company
ZIELINSKI, L., Kelly Services, Inc.

MICHIGAN SELF-INSURERS' ASSOCIATION

Page 2
November 20, 2009

The Chairperson called the meeting to order at 11:35 a.m. to discuss the following Agenda:

AGENDA

1. Minutes of Board of Managers' Prior Board Meeting
2. Treasurer's Report
3. Membership Committee Report
 - a. Membership dues complaint
4. Nominating Committee Report
5. Funds Trustees' Report
6. *Amicus Curiae* Committee Report
7. Technology Committee Report
8. 2010 Spring Conference Committee Report
 - a. Registration fees for conferences
9. Health Care Committee Report
10. Legislative Committee Report
11. Old Business
 - a. Joint Conferences?
 - b. Conflict of interest statements/Whistle Blower statements
 - c. Student scholarship
 - d. Other old business
12. New Business
 - a. Governor's Executive Order
 - b. Status of SISF
 - c. Other New Business

However, arrangements were made for Mr. Edward Welch to address the Board prior to the Board proceeding with the Agenda above.

Mr. Welch explained that he has been engaged by the Governor's administration to see if a consensus can be built for change in the workers' compensation system in light of the present state budgetary concerns. Mr. Welch said he would like to begin a dialogue in that regard with MSIA and he would also be speaking to many other groups and individuals.

Mr. Welch explained that, as we know, the Governor's recent Executive Order (EO) provides for a reduction in the number of Magistrates from 26 to 17 as of January 26, 2010. This reduction is to be accomplished by not re-appointing those Magistrate's whose terms expire on that date. Mr. Welch explained that in 2011 another 20% reduction in general fund spending is something we may see.

Mr. Welch inquired of the MSIA Board as to how its members believed the workers' compensation system might be made more efficient. He asked what the Agency can do for employers.

MICHIGAN SELF-INSURERS' ASSOCIATION

Page 3

November 20, 2009

Some questions Mr. Welch offered as topics for discussion included: Do we need to have redemption hearings in order to have redemptions approved; might mediators hear redemptions; might parties agree to arbitrate cases, as is permitted by statute but never used; is there a greater role for the "small claims" provision in the statute; and, might larger employers consider arbitrating claims by plants? Mr. Welch said that there may be committees set up to inquire into different areas of workers' compensation practice and he noted he has had many volunteers to be on such committees. He was looking for input from the MSIA between now and the end of the 2009 calendar year, after which he would begin to move ahead in early 2010.

MSIA Board members offered various suggestions. Among those are the extent to which Michigan lags other states in electronic filings. The Board also said cost cutting might be achieved by eliminating some of the state's Funds, particularly those whose original purpose is now outdated. The Board and Mr. Welch also discussed better enforcement of fraud, and an Uninsured Employers Fund.

The question of additional fees was raised. Mr. Welch and the Board discussed the possibility of raising redemption fees and/or adopting filing fees (for both employers and employees). Mr. Welch also raised the possibility of fees for approval to be self insured, as well as penalties for failure to file documents. Some of these fees had been discussed when David Plawecki had been the Director and had been resisted by employers at the time.

The MSIA Board raised the question of whether an increase in redemption fees could be linked to "saving" at least some of the magistrate's positions destined to be eliminated on January 26, 2010. Mr. Welch explained that "everything is on the table" with respect to any and all issues, whether they involve legislation, executive orders, and/or internal changes in administration.

Mr. Welch concluded by saying that he would be interested in returning to address the MSIA Board probably in February, after everyone has had the time to mull over and discuss different possibilities for changes. Mr. Welch invited any suggestions and input from the MSIA membership. They are to be directed to the MSIA Chair, Susan Azar at susan.r.azar@gm.com who will then provide them to Mr. Welch. The MSIA Board thanked Mr. Welch for his presentation and the give-and-take.

After Mr. Welch's presentation, the Board then moved on to its regular business meeting.

The **Minutes** were approved, upon motion of Mr. Calille that was seconded by Ms. Climer, after one correction suggested by Ms. Climer.

The **Treasurer's Report** was submitted by Mr. Healy. He provided the Board with a handout with respect to MSIA's budget. Mr. Healy explained that the Fall Conference Committee, chaired by Mr. Doug Wright, was to be congratulated for a profitable conference put on in October, 2009. The Treasurers report was approved upon motion of Mr. Calille, seconded by Mr. Green.

MICHIGAN SELF-INSURERS' ASSOCIATION

Page 4

November 20, 2009

The **Membership Committee Report** was submitted by Mr. Healy. He reported that 65% of the membership funds have been received. The Board discussed again placing some of its funds in certificates of deposit. Mr. Healy then brought to the Board's attention a complaint lodged by a member. The MSIA member noted the difference in MSIA dues that he must pay as a one-person vocational consultant as compared to those of an attorney joining MSIA. Another Board member noted that another person had voiced a similar concern. After some discussion, the Board will rethink whether there should be a different category within MSIA dues going forward.

The **Nominating Committee Report** was submitted by Mr. Calille who said the Committee had nothing new to report.

The **Funds Trustees Report** consisted of the Board noting that MSIA had submitted three persons' names to the Governor as potential replacements for the vacant "employer" spot on the Funds Board of Trustees.

The **Amicus Curiae Committee Report** was submitted by Mr. Calille and the Executive Secretary. The case of *Trammel v Consumers Energy*, in which MSIA had filed an *amicus curiae* brief, is being appealed by the employer to the Michigan Supreme Court. The MSIA was authorized to support that application by means of an *amicus curiae* brief as had been done at the Court of Appeals level. The *Trammel* case addresses the question of whether a claimant can receive specific loss benefits when an implant has ameliorated the effect of the loss of body member. The *Trammel* case itself involved a knee replacement and a claim of specific loss of the leg. The *RICO* case, where MSIA had filed an *amicus* brief, continues to pend before the United States Supreme Court. [Subsequent to the Board meeting the United States Supreme Court rejected the employer's appeal in that *RICO* case]. Finally, Mr. Calille discussed and the MSIA Board members were provided with the published decision from the Court of Appeals in *Fries v Maverick Metal Stamping, Inc., et al.* Mr. Calille explained the underlying facts on how the Court of Appeals decided that the facts constituted an exception to the exclusive remedy provision such that the employer might be liable for an intentional tort. This case is unfavorable from an employers' viewpoint. Mr. Calille directed the Executive Secretary to determine whether the employer intended to appeal this case to the Michigan Supreme Court, and if so, MSIA would consider an *amicus curiae* brief. [It was subsequently determined that the case was not appealed to the Michigan Supreme Court].

The **Technology Committee Report** was submitted by Mr. Parker. He noted that the website reflects the early information with respect to the 2010 spring conference.

The **2010 Spring Conference Committee Report** was also provided by Mr. Parker. He reported that the Committee had earlier in the morning discussed the preliminary arrangements for the Spring Conference. The Committee intends to change when different functions will take place. The Committee is also considering having the conference and exhibitors in the same room, like at the last couple fall conferences. The Committee is discussing registration fees and efforts to encourage more employers to attend. The wine tour will continue and still be conducted by Mr. Brenton. Other persons or firms wishing to sponsor recreational events in conjunction with the conference are encouraged to do so, such

MICHIGAN SELF-INSURERS' ASSOCIATION

Page 5

November 20, 2009

as a boat trip perhaps. Long time members of MSIA will be recognized at the conference. Among the topics that will be addressed at the conference is the use of medical marijuana.

The **Health Care Committee Report** was provided by the Chairperson. She explained that union representatives had raised questions with regard to access-to-care at the last Committee meeting. And, the free-standing centers again argued that they are entitled to higher fees, to no avail.

The **Legislative Committee Report** was submitted by Ms. Block. Ms. Block said Lansing is preoccupied with budget matters and, beyond that which had been discussed with Mr. Welch, there was no news with regard to workers' compensation. Mr. Wright inquired whether anything was on the legislative agenda with respect to misclassification of employees and Ms. Block responded that this issue may be coming up in the future.

Under **Old Business**, the Chairperson indicated that she had spoken with RIMS about the potential for a joint conference and they agreed to have another meeting in that regard. Mr. Wright suggested that a joint meeting might not be in the offing immediately but that a lunch or something of that sort might be arranged as another method for both organizations to interact.

The Board then discussed the conflict of interest and whistle blower statements that might be implemented for the Board. Mr. Healy has furnished examples of such forms. The Executive Secretary will review and advise the Board in that regard.

The Board's discussion of student scholarships was tabled given the absence of Ms. Zielinski. There was no other old business discussed.

Under **New Business**, the Board discussed the Governor's executive order, which had been also mentioned in Mr. Welch's presentation. The Executive Order reduces the number of magistrates from 26 to 17 as of January 26, 2010. The Board discussed the implications of this reduction and how the reduction could be used to implement procedures and policies unfavorable to employers. The MSIA Board was next provided a handout as to how Michigan places in the overall spectrum of the 50 states and Michigan places well. The Board also discussed the financial state of the Self Insurers' Security Fund. The Board was provided a handout with a summary of the fiscal state of the Fund and the potential effect on the Fund of the Delphi bankruptcy. The Board decided that it would be necessary for the Fund to advise the Board of precisely how much money the Fund envisions needing for the calendar year 2010. The Board advised the Executive Secretary to contact Denny Morrill to invite him to the February MSIA Board Meeting in relationship to that point, as well as other issues regarding the Self Insurers' Security Fund.

Finally, the Board discussed possible changes in the 2010 meeting dates, but the consensus was to leave the scheduled dates as is.

MICHIGAN SELF-INSURERS' ASSOCIATION

Page 6
November 20, 2009

The meeting was then adjourned by unanimous consent at 4:18 p.m.

Respectfully submitted,

Gerald M. Marcinkoski

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Executive Secretary