

Negligence Law Section

E-NEWS

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Message From The Chair



Steven B. Galbraith
Galbraith, Delie & James PC

SWAN SONG

*"Courage is what it takes to stand up and speak;
courage is also what it takes to sit down and listen."*

-Winston Churchill

From your retiring Chair:

No wait - Swan Song is the title of Brian Einhorn's recent (and excellent) editorial for the State Bar Journal. For my swan song I was going to discuss the many events of the past year but my wife, Linda, convinced me no one would read it, including her.

Speaking of President Einhorn, our hats go off to him for his excellent leadership in the face of tremendous adversity. Brian's reign was quickly encumbered by SB 743, which led to the formation of the Task Force, a group chosen and assembled without our leader. The Task Force Recommendations present the greatest threat to the vitality of the Bar in a generation, with the future of the Bar's purpose and meaning left to the fait of an apparent political agenda. Brian's courage and leadership, both speaking and listening, has helped steer our ship through rocky

State Bar of Michigan Negligence Council

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shoals, though the ship still might sink, nonetheless.

I was encouraged by the Board of Commissioner's retort to the Task Force Recommendations. The State Bar of Michigan Comments on the Report of the Michigan Supreme Court Task Force on the Role of the State Bar of Michigan were well thought out and presented in a cogent, workable format. Where needed, changes were suggested which would still permit a voice within Keller restraints.

[View Comments](#)

Buttressing the BOC's Comments, SBM Sections created a steering committee which issued our own recommendations on the role of advocacy for voluntary associations, such as the Negligence Law Section. Many Sections presented positions to the Supreme Court. You, as our members, have demanded we advocate on your behalf on issues of interest to the negligence community - and we have actively followed your suggestions. We have been able to interact with the Legislature and individual Legislators to great effect, and look to continue our role in the future. Our Section Report was timely filed with the Supreme Court and forwarded to you earlier in a News Flash.

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Insurance Coverage Advisor



By Hal O. Carroll
www.HalOCarrollEsq.com

ADDITIONAL INSURED AND INSURED CONTRACTS

When someone is injured in a construction project, the paths to recovering damages are multiplied. If an employee of a subcontractor is injured, possible targets are other subcontractors, as well as the general contractor. Whether you are the defendant or the plaintiff, this multiplicity of targets requires some attention to get the coverages in play.

The "coverages" in this situation are of two types - insurance and contractual indemnity. Each requires a different approach.

Defendants: tender early and often

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Supreme Seminar, email Neg Law.

If you are the general contractor, you will want to make several tenders. First, to your own insurer, then to the insurers of the subcontractors (including the subcontractor whose employee was injured), then to the subcontractors themselves (for contractual indemnity). The general contractor, if it has had good counsel, will have taken steps to ensure that it is an additional insured on its subcontractors' general liability policies. Ideally this will be by means of an endorsement to each policy, not merely a certificate of insurance. And the general will also have inserted an indemnity clause in the subcontractors' contracts.

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Hal Carroll is a founder and the first chairperson of the Insurance and Indemnity Law Section of the State Bar of Michigan. He represents insureds and policyholders in insurance coverage disputes. He is a chapter author of Michigan Insurance Law and Practice, published by ICLE, and has lectured and written many articles in the areas of insurance coverage and indemnity. His website is www.HalOCarrollEsq.com and he can be reached at HOC@HalOCarrollEsq.com or (734) 645-1404.

The Michigan Association for Justice

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The Michigan Defense Trial Counsel
offer their membership and the public
this first time opportunity to purchase:

[Motor Vehicle No-Fault Law in Michigan 2011 Edition](#)

LITIGATING TORT CLAIMS WHEN THE DEFENDANT'S ONLY SIGNIFICANT ASSET MAY BE ITS LIABILITY INSURANCE



Thomas Bick

[Bio](#)



Ivonne M. Soler

[Bio](#)

Litigating tort claims when it appears that insurance may be the defendant's only significant asset can raise some difficult issues for both plaintiff's and defendant's counsel. In this article, we look at those issues from the perspective of plaintiff's counsel who has been asked by her client-the injured party-to file suit against a defendant who appears to have few assets other than its liability

insurance. The second article in this series will address these same issues from the perspective of the defendant's counsel whose client is anxious to settle the lawsuit as soon as possible within the coverage limit of its liability policy. The final article in the series will address the challenges faced by both plaintiff's and defendant's counsel who share the goal of quickly settling within policy limits, but find the defendant's insurance company reluctant to do so.

Consider the following hypothetical: Johnson has been severely injured by the conduct of an employee of Smithco, a mid-size company headquartered in Detroit. The employee's conduct, which occurred during the course of his employment at Smithco, was at least grossly negligent-and perhaps even willful. It is a matter of public record that Smithco is in deep financial straits. The company has few assets to satisfy a judgment in favor of Johnson, other than (perhaps) liability insurance. A major judgment against Smithco, if not covered by insurance, could push the company into bankruptcy.

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Michigan Lawyers Weekly wants to hear about your Verdicts & Settlements:

Please submit recent civil cases (within the past six months) where you prevailed - whether in a jury verdict or a settlement -- so they may publish them.

Questions about Lawyers Weekly's Verdicts and Settlements policy may be directed to the editor at (800) 678-5297 or editor@mi.lawyersweekly.com

Legislative Update



Todd Tennis
Capitol Services, Inc.

Major Tort Issues Largely Absent in 2014 Session

The Michigan Legislature began their summer recess unusually early this year as they left Lansing in mid-June. After an attempt to increase transportation funding failed to win passage, the House and Senate wrapped up the budget process and lawmakers

returned home to work on reelection campaigns. A surprisingly high number of incumbents were the subject of strong primary challenges in the August 5 election, but all but one were victorious. Representative Frank Foster (R-Petoskey) lost to challenger Lee Chatfield (R-Levering), and with the rarity of incumbents falling to a challenger from their own party, the result sent shockwaves through Lansing.

In fact, this one election may have a large outcome on whether or not Michigan civil rights laws will be expanded to include protections for members of the LGBT community. Representative Foster, whose voting record could not be labeled anything but conservative, argued earlier this year that gays and lesbians should be covered under Michigan's Elliot-Larsen Civil Rights Act. This prompted a primary challenge from Mr. Chatfield, a 26 year-old Christian school teacher. There is currently a great deal of speculation in Lansing that Rep. Foster's defeat could doom any efforts to amend Michigan's anti-discrimination law to include gays and lesbians by scaring off other potential Republican supporters.

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MICHIGAN'S NEW BUSINESS COURTS: UNIQUE INSIGHTS ON WHAT THEY MEAN TO LITIGATORS AND THEIR CLIENTS

Event to be held at the following time, date, and location:

Tuesday, September 30, 2014 from 8:30 AM to 12:30 PM (EDT)

THOMAS M. COOLEY LAW SCHOOL
AUBURN HILLS CAMPUS
2630 Featherstone Rd
Auburn Hills, MI 48326

[Attend Event](#)

Insurance and Indemnity Law Section

Annual Meeting

DeVos Place, Grand Rapids, Michigan
September 18, 2014, 9:30-11:30am

Election of Council and Officers

Followed by our program

Cyber Liability:

Will your client - or your firm - be the next Target?

Target Stores' recent data breach is an example of the kind of business risk that many businesses face in today's business climate. The risk isn't limited to clients - law firms also face risks of unintended disclosure of confidential information.

Come learn about the types of coverages that may help your clients and your firm manage Cyber Risk exposures.

Third Party Risks include

- Liability for data losses (unauthorized disclosure of corporate or personal information of customer or client).
- losses due to the inability of authorized persons to access the network due to a cyber attack
- transmission of virus or malware

First Party Risks include

- expense of responding to and remediating a network breach
- expense of correcting credit and other records
- expense of notifying victims of data loss
- expense of recovering stolen personal identity
- business income loss from suspension of operations due to data breach

11th Annual No-Fault Institute

Presented by the Michigan Association for Justice

September 29-30, 2014

Registration is 8:30am daily

George T. Sinas

Sinas, Dramis, Brake, Boughton & McIntyre, PC,
Lansing and Grand Rapids, MI

Wayne J. Miller

Miller and Tischler, P.C.
Farmington Hills, MI

Westin Southfield
1500 Town Center
Southfield, MI

**REGISTER
HERE**

2014 Outstanding Achievement Award



Peter L. Dunlap

The Negligence Law Section of the State Bar of Michigan proudly confer this Outstanding Achievement Award upon Peter L. Dunlap For his distinguished service to the legal community.

Prior Recipients

2008 - Justice Elizabeth Weaver
2009 - Attorney, Dean Robb
2010 - Judge Elizabeth Gleicher, Court of Appeals
2011 - Justice Michael Cavanagh
2012 - William D. Booth
2013 - William F. Mills
2014 - Peter L. Dunlap

Encourage Members of Your Firm and Colleagues to Join!



Jennifer Grieco

Would you spend \$40 per year to protect the practice of negligence law in the State of Michigan?

By joining the State Bar of Michigan's Negligence Law Section, you will be doing just that: joining the Section's efforts to stop the onslaught of legislation intent on frustrating an individual's ability to bring a negligence claim.

We need your help and support!

Please act NOW by completing the attached form and sending in \$40 to join the Negligence Section and increase our strength and

ability to monitor, oppose and advocate against such legislation in 2014 and beyond.

Membership News Update:

The Negligence Council has approved offering free membership to the Negligence Section to newly admitted lawyers in accordance with the State Bar of Michigan's policy (SBM Bylaws Article VII, section 5) permitting newly admitted lawyers to select one (1) free membership for two (2) years in a section of their choice, in addition to their free membership in the Young Lawyers Section. This free membership will permit newly admitted lawyers to attend our membership events and to receive the informative Negligence Law Section E-News. We hope that you will encourage newly admitted lawyers in your firms and/or that you interact with to take advantage of the two years of free membership in the Negligence Section.

JOIN TODAY!

Thank you.
Jennifer Grieco
Membership Chair

Photos of the June 5, 2014 Past Chair Event

The Reception and Dinner Honoring *The Past Chairpersons of the Negligence Council of the State Bar of Michigan* and Presentation of the *Earl J. Cline Award for Excellence* to Justice Marilyn J. Kelly.



CONTACT US
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