

# Negligence Law Section

## E-NEWS

Volume 14 #4  
September 2022

### Message from the Chair

#### Looking Forward: Future Events



Robert F. Riley  
*Riley & Hurley PC*  
[Email](#)

The 2021–2022 Negligence Law Section year nears its conclusion. This has been a remarkable and dynamic time for our Council with intense projects, detailed deliberations, significant advocacy and enlightening educational programs. This has been a Council to be proud of. Every member has been committed to our mission and devoted countless hours to our work. There were no slackers; rather, each and every Council member "rolled up their sleeves" and offered outstanding contributions for and on behalf of this Section. We can and should be very appreciative for their fine efforts on our behalf.

 [Read More](#)

### AMICUS BRIEFS

On August 11, 2021, the Negligence Council adopted guidelines governing the submission of amicus briefs. These Guidelines are set forth below.

#### Negligence Law Section Amicus Brief Guidelines

The Council is consistently requested by the Michigan Supreme Court to address important matters before the court. Every submission to the courts is scrutinized by these Guidelines.

In addition, our voting requirements mandate consensus among plaintiff and

defense council members. Accordingly, this balanced approach is consistent with our mission and our views on the most critical matters impacting negligence law.

[Full Guidelines Here](#)

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## ARTICLES

The section encourages authors to submit articles regarding relevant and timely issues and may not reflect the opinions of the section or its council.

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### Is Open and Obvious on its Last (Broken) Leg?



Todd J. Stearn

*Law Offices of Todd J Stearn PLC*

[Email](#)

According to the Centers for Disease Control and Prevention, over one million Americans are injured, and over 17,000 people die, from a slip, trip and fall incident in the United States each year. Despite those staggering numbers, Michigan courts have spent many years limiting the rights of those victimized by the carelessness of others. For example, since 1992, the Michigan Supreme Court effectively eliminated any duty to warn of open and obvious dangers even where a property owner failed to keep their property in a reasonably safe condition.

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### Litigating the Value of Medical-Expense Damages



Michael J. Cook  
*Collins Einhorn Farrell, PC*

[Email](#)



Anthony Pignotti  
*Foley, Baron, Metzger & Juip PLLC*

[Email](#)

There's a common adage for buying a car: Never pay the sticker price. That's good advice for medical-expenses damages too.

It's no secret that the price of medical treatment isn't what the bill says. Medical providers commonly accept less than the billed amount. So why should billed amounts set the damages for medical expenses? They shouldn't.

The key is reasonable value. More specifically, the key is what is admissible to show the reasonable value of medical expenses. There are a couple layers to that legal onion, and the trip through them is fraught with tear-inducing peril. Some will get lost in the collateral-source rule. Others will shuck aside valid hearsay objections. But, simply put, the amount billed for medical expenses doesn't always equate to reasonable value when calculating damages.

 [Read More](#)

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## ON THE LIABILITY OR IMMUNITY OF JUDICIAL LAW CLERKS



Timothy Mulligan  
Paletz Law

[Email](#)

This article will consider both the liability of a law clerk or judicial attorney, as well as immunity. Both analyses point to the same conclusion: law clerks ought not to be liable to

litigants or the public at large from their research and writing activities for a judge. As to liability analysis, courts should hold that law clerks do not owe duties of care to litigants or the public, and that proximate cause is absent because of the presence of an intervening, superseding cause (the judge’s own decision-making). As to immunity, law clerks should be and are held to enjoy quasi-judicial immunity, and it should be broad and vigorous – no less vigorous than the types of immunity enjoyed by judges since law clerks’ role is intimately associated with the judicial function.

 [Read More](#)

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## Unclothing the Emperor

Unclothing the Emperor: Straight Talk from the Michigan Court of Appeals about the “Independent” Medical Examination Fallacy



Thomas Sinas  
*Sinas Dramis Law Firm*  
[Email](#)

For lawyers in the trial trenches, reading appellate decisions can sometimes be frustrating. While providing guidance on the rules of law, the decisions can feel untethered from the day-to-day reality of trial practice.

 [Read More](#)

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## Practicing Wellness

Practicing Wellness: Well-being for working women

This article originally appeared in the May 2022 issue of the Michigan Bar Journal.



Molly Ranns  
State Bar of Michigan  
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The alarm goes off at 5:30 a.m., a not-so-gentle beginning to the day. The hour of quiet work before the rest of the family awakens always seems shorter than 60 minutes.

The demands of morning tasks pile up like rush-hour traffic. Packing and labeling snacks. Making lunches. Filling water bottles for the school day. Organizing backpacks. Trying to remember where homework assignments were stashed. Figuring out which day library books are due.

Once children are safely at daycare or school, the workday continues. Responding to emails. Returning and making phone calls. Attending meetings. Researching, preparing. Desperately trying to cross one more item off the to-do list. It's the life of working parents, a struggle for both men and women, but especially female attorneys.

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## NEW COUNCIL MEMBERS



**Stephanie B. Burnstein**  
*Segal McCambridge  
Singer & Mahoney Ltd*  
[Bio](#)  
[Email](#)



**Michael J. Behm**  
*Behm & Behm*  
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**Dora A. Brantley**  
*Rutledge Manion Rabaut  
Terry & Thomas PC*  
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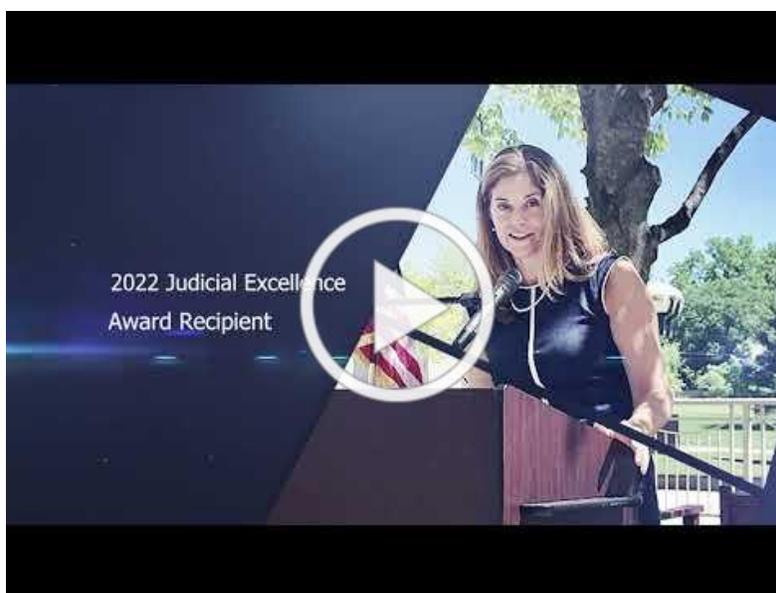
## Annual Meeting and Awards Reception



Click [Here](#) to view photos from this event

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## FEATURED VIDEO



Check out Chief Justice Bridget McCormack's remarks from our Spring Meeting after she received the Judicial Excellence Award!

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## PHOTO GALLERY

Click the links below to view photos from the event

[Young Lawyers Deck Party 2022](#)

[Annual Meeting and Awards Reception 2022](#)

[Past Chair Event 2022](#)

[Spring Meeting 2022](#)

[Summer Meeting 2021](#)

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# CIVILITY IN THE COURTROOM



Civility is extremely important in our courts, and many of these courts have released court orders regarding civility guidelines. Click below to check them all!

[US District Court - Eastern Michigan](#)

[US District Court - Western Michigan](#)

[Supreme Court Order](#)

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## Top Ten Civility Tips

1. Act conscientiously and responsibly in your interactions with others.
2. To the extent possible, always cooperate with others.
3. Do not disparage or attack others.
4. Treat others fairly and respectfully notwithstanding the fact you may have differing perspectives, viewpoints or politics.
5. Always act in good faith.
6. Always accord professional courtesy whenever reasonably possible.
7. Seek to exemplify the best of our profession in all interactions with others.
8. Do not act upon or exhibit bias toward others and seek to reasonably accommodate the needs of those who may require such accommodations.
9. Strive to be the best version of yourself.
10. Be patient with others and seek to follow the Golden Rule.

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## OTHER LEGAL ORGANIZATIONS

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### State Bar Calendar of Events

Want to see what other events are going on in the State Bar? Check out the calendar below!

[Calendar](#)

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# No-Fault Institute XIX



Join MAJ for their 2 day seminar! Click the link below for a full schedule of events, as well as a registration form.

2-Day Seminar  
October 13 and 14, 2022  
Four Points by Sheraton  
27000 S. Karevich Dr.  
Novi, MI

[Brochure](#)

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## NAWJ 44th Annual Conference



The National Association of Women Judges are coming to Detroit! Early Bird registration is open for NAWJ's 44th Annual Conference in Detroit, Michigan from October 19-22, 2022. [Click here](#) for more information and to register.

Negligence Bar members are welcome and encouraged to attend.

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## **ADR Section's 2022 Annual Meeting, Annual Conference and Awards Ceremony**

**September 30 - October 1, 2022**  
Registration Will Be Coming Soon

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## **MICHIGAN LAWYERS WEEKLY**

### **Michigan Lawyers Weekly wants to hear about your verdicts and settlements!**

Please submit recent civil cases (within the past six months) where you prevailed - whether in a jury verdict or a settlement -- so MLW 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](mailto:editor@mi.lawyersweekly.com).

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**MICHIGAN COURTS WEBSITE!**



The Michigan Courts is a new resource that the Supreme Court has created for lawyers, non lawyers and anyone in between. They have many resources for anyone who wants to know more about the court system. Some of those things include:

- Case Information
- Information About Justices
- Court Programs
- Attorney Name Change
- Self-Represented Litigations
- Public Administrative Hearings
- News Releases
- Business Court Search
- Trial Court Directory
- Court Communications
- MiFILE Systems
- Court Livestreams
- Attorney Certification
- Committees and Boards

And so much more! Click the button below to visit The Michigan Courts website.



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## **SBM** STATE BAR OF MICHIGAN

### **THE STATE BAR OF MICHIGAN LAWYER REFERRAL SERVICE (LRS)**

The SBM Lawyer Referral Service (LRS) currently receives more than 500 calls each week from people looking for lawyers. Many of these are unable to find a match because there are not enough attorneys in some geographic areas or in some practice areas. For more than a year we have been revising and improving the LRS. The result is a system that produces better matches for attorneys and consumers alike. We are ready to begin a significant marketing initiative to consumers and we need more lawyers to participate as panel members.

Here are few examples of concrete improvements: Better matches mean a higher likelihood of securing paying clients than ever before. The new online platform now automates much of the tracking and reporting that attorneys had to do in the past. In addition to traditional cases, LRS has added Modest Means panels for family law and bankruptcy, and opportunities for attorneys to market Limited Scope practice.

Thank you very much. We are excited about these new opportunities for your section members to expand their practices and to enhance access to quality legal services throughout Michigan.

Click [here](#) to learn more about LRS

Click [here](#) to learn more about joining one or more of our LRS panels

Click [here](#) to learn more about Limited Scope practice

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## Remember to renew your membership to the Negligence Section when you renew your State Bar Annual Dues!

[Download Form](#)

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## SOCIAL MEDIA

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### Negligence Law Section's LinkedIn Page



Did you know that the Negligence Law Section has a LinkedIn page? We share lots of information, including when events are taking place, interesting articles from both our own members and other pages. We encourage you to follow our page! Click the link below and then click the follow button in the upper left corner.

[Visit Our Page!](#)

[Visit Our Group!](#)

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### Negligence Section YouTube!

Did you miss an event? Want to see an explanation again? Check out our YouTube channel! There you'll find nearly every event the section has been recorded and is ready for viewing. Check out the recordings below and keep an eye out for future events!

## Passing the Gavel



Negligence Law Section



A Post-Pandemic Return to Live Continuing Legal Education



Virtual Annual Meeting and Awards

A Post-Pandemic Return to Live Continuing Legal Education

YouTube Channel

## STATE BAR OF MICHIGAN NEGLIGENCE COUNCIL



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