

STATE BAR OF MICHIGAN SECTION MINUTES

Instructions: Please report to the Bar office five business days from the Council meeting date.

Section: *WORKERS' COMPENSATION*

Date and Time of Meeting: *2-1-13 9:00 A.M.*

Location of Meeting: *DIMONDALE / DETROIT VIDEO CONF.*

Attendance:

Member	Present	Absent	Excused
Teresa L. Martin, Chairperson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Charles W. Palmer, Vice Chairperson	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
J. William Housefield, Jr., Secretary	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Christopher J. Rabideau, Treasurer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dennis P. Flynn, Grand Rapids	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Mouhsin Sesi, Mount Clemens	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kevin P. Kales, Royal Oak	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Matthew R. Conklin, St. Joseph	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Timothy J. Esper, Detroit	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ella S. Parker, Grand Rapids	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Phillip Frame, Lansing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kristin Alana Lusn, Royal Oak	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Andrea Hamm, Detroit	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Agenda:

Please check the left-hand box if the item has an addendum or attachments, for example a listing of additional information, exhibits, schedules, and/or reports.

<input type="checkbox"/>	Item: <i>KIDS CHANCE</i> Action Taken: <i>AUTHORIZE \$7,500.00 CONTRIBUTION ON BEHALF OF SECTION</i>
<input type="checkbox"/>	Item: <i>AMEND SECTION 6 BYLAWS</i> Action Taken: <i>PASSED</i>
<input type="checkbox"/>	Item: Action Taken:

Next Meeting:

Date and Time: *3-1-13 9:00 A.M.*

Location: *DIMONDALE DETROIT VIDEO CONF.*

Submitted by: *J. WILLIAM HOUSEFIELD P-30815*

Please return this form to Sandi Barger, sbarger@mail.michbar.org, so the minutes may be archived on the web.

Minutes of WC Section Council Meeting - February 1, 2013

Members Present: Martin, Housefield, Rabideau, Flynn, Conklin, Esper, Parker, Frame, Lusn. **Guests:** Kevin Elsenheimer, Jack Nolish, Jack Wheatley, Murray Feldman.

1. Teresa Martin called the meeting to order at 9:10 a.m.
2. **Secretary's report:** Bill Housefield submitted the minutes of the December 7, 2012 Council meeting, which took place following the Section's Annual Winter Meeting. He reported that there had been no request for changes, deletions, or additions to the minutes, which had been distributed to Council members shortly after the December 7, 2012 meeting. Following discussion and motion to accept the minutes as submitted, the motion passed.
3. **Treasurer's report:** Chris Rabideau reported that he had not received any financials from the State Bar in the 2013 calendar year. He reported that as of December 25, 2012, the Section had a balance of \$83,741.46. He did bring to the attention of Council members that in December of 2011, the Section had a balance of approximately \$92,000.00. He reported that there had not been a drop in membership and that our income from dues, our primary source of revenue, had remained essentially consistent from 2011 to 2012. He attributed the reduction in the balance to the fact that the Section agreed to underwrite a good portion of the annual meeting to Mackinac Island in order to encourage attendance and participation in the meeting. He also pointed out that the Section agreed to contribute to the celebration of the Centennial festivities marking the 100th anniversary of the Workers' Compensation Act. Following discussion a motion to accept the treasurer's report as submitted, the motion passed.
4. **Director's report:** Kevin Elsenheimer, the Director of the WCA, discussed two issues which he felt were pertinent to the Workers' Compensation Section. The first concerns IT within the Agency. He stated the Agency is continuing to move forward with the transition from older equipment to newer and more modern applications. The goal is to allow employees and employers to electronically file all documents that are now sent in via regular mail. The Agency also hopes to update how records are kept. Currently, records are on microfiche, and the hope is that they can be scanned. Unfortunately, the current budget does not provide for all of the updating that needs to be performed. He and members of his staff will be meeting with appropriation committees within the next two to three weeks. His goal is to have the transition completed by October 2013.

The other issue involves how to replenish the state funds. He candidly stated that the Self-insured Fund could not handle all the claims involved in the "Delphi issue." As far as he knew, there was no legislative action or internal plans seeking to

amend the Workers' Compensation Act. A plan to discuss the shortage of money will be taken to the other remaining self-insureds.

Deputy Director Nolish updated the Council on Health Care Rules and the calculation program. He stated that the interest calculation program should be up to date and ready for use. He commented that certain forms (107, 100) are subject to optical recognition. He stated that there should be an OCR version of forms available within 90 days and that mandatory use will be required.

In fielding questions from Council members, it was brought to his attention that certain providers are requesting monies in excess of those provided in the Health Care Rules. Specifically, Bill Housefield mentioned the University of Michigan - Flint Hospital pointed out that subpoenas do not apply to Section 118 of the Health Care Rules. It was generally agreed that this was true. Phil Frame brought up the fact that when issuing subpoenas to a company in Georgia, they likewise are indicating that the Health Care Rules do not apply to subpoenas in addition to requesting a sales tax for the "goods" (copies of records) that are sent from Georgia to the State of Michigan. He did mention that there is an Attorney General Opinion that "goods" are subject to Michigan's six percent sales tax. Mr. Nolish thought the best way to handle the issue was through language in the subpoena, as opposed to attempting to amend the Health Care Rules, which really have more application to defining what certain medical care and treatment is appropriate and the charges which are appropriate for that treatment. He did request any information which Members Housefield and Frame could furnish to him.

5. **MCAC report:** Jack Wheatley, chair of the MCAC, reported that the backlog of cases for the UI continues to shrink. When the MCAC was created, there was a 145-day backlog. Currently, the backlog is 49 days. He further reported that two UI Commissioners are being placed in the workers' compensation area to help reduce that backlog. Members Goolsby and Wyatt will begin contributing more review and opinions in the WC area. He further reported that six of the nine original members had a background in WC. He announced that two Commissioners, D. Brown and P. Halm, would be assigned as the third member on certain panels in the future.

Member Frame inquired as to the MCAC's position regarding a request for a 30-day extension in which to file a brief. Mr. Wheatley indicated that as far as he knew, there had been no change in the MCAC's position relative to granting that request if it is in writing.

6. **Magistrate's report:** No report available.
7. **Old Business:**

A) SBM Annual Meeting participation: Teresa Martin brought up the issue as to whether the Council wanted to recommend to the Section that we participate in the Annual State Bar Meetings, which are held in the Fall. The general consensus was that most members preferred our annual meeting in the Summer and also preferred a Winter meeting in December, which was more meaningful than a meeting and cocktail party during the annual meeting of all Sections in October. It was decided that Ms. Martin would convey to the SBM our position.

B) Hall of Fame: The composition of the Hall of Fame committee was discussed. The committee shall consist of the last two chairpersons, the current chairperson, and the vice-chair. The identity of those individuals, and the make-up of the committee, was announced in the recent newsletter. Ms. Martin indicated she would meet with the other members as quickly as possible and try and establish a deadline for the submission of nominees to the Hall of Fame. It was suggested that any nomination be in writing and contain a short biography of the nominee. Once a deadline has been established, Ms. Martin will send an e-mail blast out to the Section members.

C) Proposal to Amend Bylaws: Vice-Chair Palmer had been in charge of circulating a petition to Section members requesting their support in amending Section 6 of the bylaws, providing for electronic voting. Member Palmer had to attend a funeral on the morning of the meeting and requested that Member Housefield answer any questions regarding the petition which previously had been circulated to Council members. A motion to adopt an amendment to Section 6 of the bylaws, including presentation to the Section at the Annual Meeting, was seconded and thereafter passed by a count of nine to zero. Member Housefield indicated that he would forward the petition and signatures of Members and the Council's position on the amendment to the State Bar of Michigan with a request that any and all action necessary for the Section to amend its bylaw be made.

8. New Business:

A) Kid's Chance contribution: Murray Feldman spoke to the Council on behalf of Kid's Chance, a nationally recognized non-profit corporation, with State Chapters currently numbering 26. He is active in the formation of the Michigan Chapter. The kids must be age 17 to 22 and be legal residents of the State of Michigan. The parent of the child must be receiving benefits in an uncontested work comp case. The assistance provided is in the form of scholarships for books, tuition, or fees associated with colleges, universities, trade schools, or licensing applications or costs. Any financial commitment to a student is only good for one year. Each student must reapply and be requalified to receive additional funds. All monies stay within the State of Michigan. Mr. Feldman indicated that the members of the

current qualification committee include himself, Rick Warsh, and Len Hickey, all three of which are past chairpersons of the Workers' Compensation Section. Mr. Feldman also suggested that the current chairperson in any given year serve on the Board of Directors of the Michigan Chapter of Kid's Chance. Mr. Feldman indicated that he would certainly welcome any contribution made on behalf of the Section but had mentioned and requested a \$7,500.00 contribution. He mentioned that the National Chapter had made a contribution of \$7,500.00 to the Michigan Chapter and thought it appropriate that the Section match that contribution.

Initially, a motion to contribute \$7,500.00 to Kid's Chance and that the current chair of the Section be a member of the Board of Directors was tabled after discussion. Thereafter, a motion to contribute \$7,500.00 was made by Member Frame and seconded by Member Lusn. A vote of 11 to zero was recorded in favor of the motion. It should be noted that Members Palmer and Kales had communicated their vote in favor of contributing \$7,500.00 to Kid's Chance in writing prior to the actual vote. Those are on record with the Secretary.

B) Summer Meeting: Member Parker reported continued progress with the Summer Meeting. She reported that she would invite Brett Burney to come and speak to the Section. She has spoken with the State Bar about having one or two speakers come and discuss all of the on-line benefits that are available to a licensed attorney in the State of Michigan. It was also determined that invitations would be extended to the Director, Kevin Elsenheimer, Jack Wheatley, Chair of the MCAC, and Lisa Klaeren, Chief Magistrate. It is anticipated that each will present a report to the Section members. Member Parker also reported that she has contacted Attorney Dave DeGraw relative to setting up the golf tournament for the Annual Meeting. It was also reported that the pricing for food and beverages seems to be higher than last year, or expected. This may be due to the drought that occurred during 2012. It was reported that last year the Section charged \$75.00 for an attorney, \$50.00 for a guest, and kids under 17 were charged \$20.00. Member Parker indicated that she would be traveling to Boyne during the upcoming week to further refine and negotiate the prices. She indicated that she could report back after that. It was decided that, if possible, the Section would like to continue to underwrite the cost of a good portion of the expense so as to encourage attendance at the Annual Meeting as well as benefit the members by providing a reduced cost for the speakers, dinner, etc. It was decided that the issue of how much monies would be appropriated would be tabled until further reports from the Summer committee are received.

C) Past Chairpersons' Golf Outing: After a little confusion, Member Flynn indicated his willingness to step forward and try to put together and organize the Past Chairperson's Golf Outing and Dinner. Member Martin suggested lunch at her house following the meeting and golf at the Majestic. The issue was tabled for now.

D) Nominating Committee for New Members: Member Housefield pointed out that past practice allowed any first-term Council member to serve a second three-year term if they so desired. He pointed out that the current Council members with terms set to expire June 21, 2013 include Philip Frame, Andrea Hamm, and Kristin Lusn. All three are first-term Council members. Members Frame and Lusn requested time to consider whether to accept a second term.

Thereafter, the meeting was adjourned at 10:20 a.m.

Respectfully submitted,
J. William Housefield, Jr.
WC Section Council Secretary