

**Minutes of Council of the Workers' Compensation Section
February 6, 2015**

Present at Meeting via Fuze:

J. William Housefield
Chris Rabideau
Ella Parker
Tim Esper
Rosa Bava
Matt Conklin
Dennis Flynn
Phil Frame
Andrea Hamm
Jayson Chizick
Mark Sessi
Danielle M. Brown—State Bar Liaison on behalf of our Section

Chairperson Bill Housefield called the meeting to order at 9:05 a.m. to address the following Agenda:

- 1. Secretary's report**
- 2. Treasurer's report**
- 3. Director's report**
 - a. Firefighters Cancer Presumption**
- 4. MCAC report**
- 5. Magistrate's report**
- 6. Old business:**
 - a. Speakers/Topics**
 - b. Subpoena, copying charges, Heath Service Rules (JWH)**
 - c. Report from Committee to Monitor Rules and Legislation**
 - d. Approve lunch cost for council members at 12/5/14 meeting**
- 7. New Business:**
 - a. Authorize Deposit of \$250.00 to Park Place Hotel.**
 - b. Hall of Fame requirements regarding eligibility**

- c. **Project Manager for list of Hall of Fame Inductees**
- d. **Court of Appeals celebration and “most influential” case for our practice**
- e. **Scheduling Order**

1. **Secretary Report:** Member Parker corrected the December 5, 2014 Minutes to reflect that the cost of lunch for Council was approved by all Members present at the last meeting. Upon Motion by Member Hamm, seconded by Member Rabideau, the Council unanimously approved the **Minutes** from the December 5, 2014 meeting, with the correction.
2. Member Esper submitted the **Treasurer’s Report**. The Section had \$91,391.62 in funds as of December 31, 2014. Chairperson Housefield reiterated that the State Bar requires requests for reimbursement to be on specific forms, except if the vendor is pre—approved by the SBM. Upon motion by Member Parker, and seconded by Member Hamm, the Treasurer’s report was unanimously approved.
 - a. Reimbursement to Member Frame for Breakfast Expenses: Member Parker moved that Member Frame be reimbursed \$141.45 for the bagels and cream cheese provided at the Winter Meeting in December. Member Hamm, seconded the motion and it unanimously passed.
 - b. Member Housefield moved to authorize the payment to the cafeteria of \$85 for drinks and refreshments provided by the Cafeteria at the Winner Meeting. The motion was seconded by Member Parker and unanimously passed.
 - c. Cost of Lunch for Council: Member Parker noted that the cost of the lunch for the Council had been approved at our December 5, 2014 meeting, as reflected in the minutes.
3. **Director’s Report:** Council agreed to table the discussion on Firefighters Cancer Presumption in light of the fact that neither Director Elsenheimer nor Deputy Director Nolish could be present at today’s meeting.
4. **MCAC Report:** Mr. Wyatt could not be present on behalf of the MCAC. Ms. Brown read into the record that Commissioner Wyatt could not be present and sent his regards and a report to be included with the minutes.

“At the end of January, 2015 we had 86 pending WC appeals. We have disposed of nine appeals since Christmas by dispositive motion or decision. Currently six commission members review WC appeals. Commissioner Young reviews UC appeals only.

Commissioner Hedges is just beginning and will train initially on UC appeals. We anticipate that he will in time participate in review of WC appeals as well.

Only news to report here is that we have a new commissioner, effective yesterday, named Phil Hedges. Phil comes to us from the Office of Regulatory Reinvention. He has on his resume prior experience with the Senate Majority Office and work for state Senator Alan Sanborn and for U.S. Senator Spencer Abraham. In law school at Cooley, he clerked for a time with the Workers' Compensation Appellate Commission. He is appointed to fill the remainder of a term, which expires July 31, 2017.

5. **Chief Magistrate Report:** Chief Magistrate Klaeren was also unable to attend today's meeting. She asked that her report also be read into the record.

"There have been many changes recently at the Board of Magistrates. This includes Magistrate reappointments, docket assignments, Agency closings (Flint) and new Rules and procedures. Part of the new procedures includes the way redemption files are requested when no application is pending.

Congratulations to Brian Boyle, David Grunewald, Beatrice Logan, Luke McMurray, Lou Ognisanti, Chris Slater, Bob Tjapkes, and myself. Governor Snyder re-appointed all eight Magistrates to new terms expiring January 26, 2019. Governor Snyder re-appointed me as the Chief Magistrate. The remaining seven magistrates' terms do not expire until January 2017; therefore, you can expect some consistency on the Board for the next couple of years.

In conjunction with the Flint closing and the reappointments, we will be reassigning some magistrates. Magistrate McMurray will now be handling files in the Saginaw office, Magistrate Tjapkes will be full time in Dimondale and Magistrate Woons will be moving to the Dimondale office for three weeks a month and will continue her one week per month in the Upper Peninsula. All other magistrates will maintain their current dockets.

The Flint Workers' Compensation Agency will close on February 13, 2015. All files currently at the Flint office will be transferred to the Dimondale Agency effective February 17, 2015. I anticipate that Magistrate Tjapkes will maintain the files assigned to him and Magistrate Woons will assume the files previously assigned to Magistrate McMurray. Magistrate Woons' prior Saginaw cases will be reassigned to Magistrate McMurray. There may be a slight adjustment of some files to accommodate the changing schedules, but any impact should be minimal.

The Board of Magistrate Rules became effective on January 15, 2015. These Rules are part of a larger set of Rules applicable to everyone that is involved in an administrative hearing in the State of Michigan under MAHS. The Rules include a “General” section, applicable to all administrative hearings, and a section specific to the Board of Magistrates in workers’ compensation cases.

One of the more significant additions is Board Rule 1307. This Rule provides for scheduling conferences, status conferences and time guidelines for individual cases. This Rule will immediately impact the Workers’ Compensation Section, as the Board will soon begin issuing Scheduling Orders on recently filed cases.

In general, magistrates will issue a Scheduling Order at the pre-trial or within 30 days thereafter, at a scheduling conference. *All parties are required to attend the scheduling conference.* The Scheduling Order includes deadlines for the completion of certain activities, with Trial anticipated within 18 months. A copy of the Scheduling Order the magistrates will be using is included in this newsletter. While we intend to enforce the Scheduling Orders, they may be adjusted to meet the demands of the case and/or parties.

The new Rules require a Status Conference within 180 days of the Scheduling Conference. At the Status Conference, the attorneys will update the magistrate on the status of the case and make any necessary adjustments to previously established deadlines.

The rules do not prevent the magistrate and/or the parties from scheduling dates in the interim to monitor the progress of the claim. These control dates will help keep the parties on track and move the claim to Trial in a timely manner.

One other significant change is a procedural change involving requests for redemptions in non-litigated files. Previously an attorney could merely request the file from the Agency, usually by email. Now, an attorney must file a Form C. Effective immediately, if a party would like the Board of Magistrates to review a claim for redemption only, that attorney or party must file a Form C with the Agency. Please check the box “Other” on that document and then add an explanation indicating that the file is being requested for magistrate approval of a redemption.

By requiring the Form C in this situation, it ensures that the filings are proper filings and that the insurance coverage listed at the Agency is accurate. Our goal is to avoid incomplete or inaccurate file information, both of which have created numerous problems in the past. MAHS will work diligently to move these types of claims to the hearing level as quickly as possible.

With all these changes at the Board of Magistrates it is more important than ever that everyone works together to make this transition period as smooth as possible. Our goal is to keep these claims moving through the system as quickly as possible and we believe that these changes will assist all of us in doing so.”

6. Old business:

- a. **Annual Meeting Speakers:** Council discussed possible speakers for our Summer Meeting. The Lobbyist Ms. Brown previously mentioned has since retired. Ms. Brown provided us with the name of another possible lobbyist to speak.

Member Chizick discussed the fact that it might be nice to have someone speak about how the magistrates plan on handling Scheduling Orders and Opioid issues. Council discussed all of the issues with the new Scheduling Orders and assimilating questions to provide to Chairperson Housefield to pass on to Chief Magistrate Klaeren. Members should email the entire Council regarding their questions as it may bring up other questions or issues as well.

Another potential speaker addressed was a retired Supreme Court justice. Chairperson Housefield will follow up on this lead.

- b. Member Housefield discussed **subpoena copying charges** and having the Health Service Rules changed to set a specific reasonable price. Members Frame, Hamm and Bava are working on drafting a rule to submit to the Council for consideration.
- c. **Rules Committee:** Member Chizick reported that the Committee has not yet had an opportunity to meet but he has performed an initial review of the State’s website, but there has not been any additional rules or statutes proposed of which he is aware.
- d. **Lunch Cost for Council Members:** This matter was summarized during the Treasurer’s Report above.

7. New Business:

- a. **Authorize Park Place Deposit:** Member Chizick moved that we authorize Chairperson Housefield’s request for a \$250 deposit to the Park Place Hotel. Member Rabideau seconded the motion. The motion passed unanimously.
- b. **Hall of Fame Eligibility:** The Council had a lengthy discussion about the Hall of Fame requirements and eligibility, including members versus non-members of

the State Bar. It was noted that the Hall of Fame Nomination Requirements was voted on by a prior Council and, until there was a motion to change the requirements, we must follow those rules. While there is nothing in the rules that indicates the nominee must be a retired member, the general rule has been to look at retired members only because of potential unfair marketing opportunities. There are exceptions when an attorney has practiced for a number of years and contributed a great deal to the Section. The Council agreed to table this conversation for some point in the future to address any changes that may be necessary, but did not feel a need to do so at the present time.

- c. **Project Manager for Hall of Fame:** Member Bava volunteered to be the Project Manager and develop a list of all the inductees by name and by year inducted. She will also be soliciting brief bios on those already inducted and the Council hopes to someday have a link to the list on our SBM Connect website. Member Frame also mentioned that it would be nice to have a printout of these names and biographies at the Summer Meeting. We can also utilize these in the Newsletter, spotlighting prior inductees.
- d. **Court of Appeals celebration and Most Influential Case:** Council agreed that we should ask attorneys Daryl Royal and Marty Critchell for their feedback into what they would consider the most influential case from the Court of Appeals in the last 50 years. We would also ask them to do a 1 to 2 sentence summary of its importance. Chairperson Housefield will ask these two attorneys.
- e. **Scheduling Order:** a very lengthy discussion ensued regarding issues with the Scheduling Order adopted and presented last month. Council agreed that some of the requirements seem to be inconsistent with the statutes and the actual rules recently adopted by MAHS. Several issues mentioned, including attendances at pretrials, meaningful Status Conferences, subsequent surgeries or even subsequent employers being brought into litigation and how that would impact the Scheduling Order. There are also issues with investigations, naming witnesses and job seeking activities up through the date of trial. Council felt very strongly that the proposed Scheduling Orders were fraught with issues that the Section as a whole needs to address with the appropriate parties. Member Chizick moved that the Council take a position allowing Chairperson Housefield to send a letter to Chief Magistrate Klaeren requesting that before any Magistrate can issue a Scheduling Order that at a bare minimum, a meaningful discussion will be held with the parties and the magistrate in accordance with the Scheduling Order language. Member Bava seconded the motion. With Member Frame abstaining, the motion passed by a majority of the votes.
- f. Member Chizick brought up the relocation of the Lansing Agency and difficulties that will cause.

- g. Member Parker reminded everyone that the Newsletter should be coming out soon, and there will be another issue in May 2015 that will list the Hall of Fame inductees.

Member Parker, seconded by Member Chizick, approved adjourning the meeting at 10:42 a.m. upon a unanimously supported motion. The next meeting is to be held on April 17, 2015 at 9:00 AM

Respectfully Submitted,

Ella S. Parker, Secretary, Workers' Compensation Section