

Workers' Compensation Section Newsletter

Spring 2011



From the Chair

What Do These Changes Mean?

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The elephant in the room at our Workers' Compensation Agencies, these days, centers on the unknown. I am asked on a daily basis what the recent changes in the budget and alignment of the WC entities means to our practices. Change is uncomfortable and people want to know what to expect. We talk about our cases and our families but each of us is wondering what the recent changes mean and whether any additional changes are coming.

When a new Administration is put in place, the potential for significant change arises. In workers' compensation, we have often been able to predict the direction of potential change because we were familiar with the new people being put into decision-making positions. More often than not, the new Directors, Chiefs, and Chairpersons came from the ranks of our workers' compensation family. We knew the individual and therefore his or her politics and management style. Our ability to know what to expect from that individual was comfortable to us. This time around, we are a bit uncomfortable because the new Director, Kevin Elsenheimer, is someone we are less familiar with. Some fear the worst, while others simply fear the unknown. The truth is, our new Director is "new" and is learning about the nuances of workers compensation very quickly. What is fortunate is that he is willing to listen and learn. Perhaps his fresh perspective on our issues will lead to new kinds of solutions and perhaps not. One thing that is certain is that he deserves our help, our insight, and our support as he begins to identify our problems and seek solutions. Hopefully his "new" look at some of our old problems will lead to innovative solutions.

As for an answer to the question "What do all these changes mean?" I, like most of you, do not know for certain. What I do know is that if and when change comes we all will adjust accordingly. That is what workers compensation lawyers do.

Elsewhere in this Newsletter you will find information regarding our Annual Meeting, scheduled for June 16-18, 2011. You will see information regarding reservation of hotel rooms at the Park Place Hotel in Traverse City. We have reserved a block of rooms and I urge you to make your room reservations now. Registration information for the seminar itself will be provided to you shortly via the Workers' Compensation Announce e-mail system. In addition to golf on Friday afternoon we are hoping to have a tour of a number of the local wineries for those

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From the Chair

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of you who do not golf. Please make plans to attend this year's meeting and bring your family along.

We have established a Hall of Fame Committee that will be identifying candidates for induction into the Workers' Compensation Hall of Fame at our Annual Meeting in June, 2011. Please forward any suggestions that you have, along with supporting information, to my e-mail address of ddegraw@shrr.com. I will forward your suggestions to the Hall of Fame Committee.

—David J. DeGraw, Chair

Editor's Note

Please note the upcoming seminar in Traverse City and the details in this issue. It's a new location and should be enjoyable.

Preliminary news about the Las Vegas trip is positive from Bill Housefield, but details are sketchy. It seems that the news generated from Vegas is, well, staying in Vegas. Thanks to Bill for all his efforts.

Check out the contact information for the Agency officials, as they have changed.

Spring Trivia:

- A) What was 11th-century Spanish military leader Rodrigo Diaz de Vivar better known as?
- B) What name was the last word uttered by Napoleon?
- C) What baseball team has a monthly newsletter called "The Vaseline"?
- D) In which year was Indira Gandhi assassinated by Sikh extremists?
- E) Which country does the airline TAP come from?
- F) What was Robert Redford's first movie?
- G) Who hosted The Match Game on its original run on NBC?

Answers on page 3

Magistrate Appreciation Celebration

By Bill Housefield

Section members from across the state came to Lansing March 10, 2011 to show their appreciation for the service rendered to the Section by Magistrates Jennifer Barnes, Rosa Bava, Lee Decker, and Dave Merwin. The event was well attended and, again, showed the closeness and support of Section members. The celebrants were subjected to some good-natured roasting by the presenters.

A majority of the WCAC commissioners and current magistrates were in attendance. Given a lot of the hot button issues facing our Section, this party allowed for a good exchange of information and ideas.

Thanks to the many members, magistrates, and commissioners who took time out of their busy schedules to attend the event. ✖

Notes from the Director

By Kevin Elsenheimer, Director, WCA

When Governor Snyder asked me to take on the position of Director, I knew the job would be interesting and even challenging at times. I knew the Governor was focused on reinventing government but I wasn't sure what that would mean for the Agency. Now, as the Governor's plans have emerged and I've had a chance to see the operation first-hand, it's become clear that the Agency is going to be a significant part of the Governor's reinvention of Michigan government.

As you all know by now, the Governor has issued an executive order which, among other actions, moves our magistrates into an administrative hearings bureau, the Michigan Administrative Hearing System (MAHS). I've already met with Mike Zimmer, the Chief Deputy Director of DELEG (soon to be LARA) and Director of MAHS regarding transition. Mark Long from my office and Chief Magistrate Quist are working with Director Zimmer's staff to smooth over details. We are also working through the impact of the executive order on the Appellate Commission. We'll do our best to inform the bar in advance of any significant shifts in case management or process that result.

The Agency is progressing on other fronts as well. Perhaps the largest shock I've had since taking over is the state of our internal and external technology. In this digital era, we are still manually stamping each piece of mail and copying it using ancient microfiche machines the size of MRI scanners. Our internal database program is based on a COBOL program that is soon to be unsupported. We process far too much paper here in Lansing, and while our Electronic Data Interface (EDI) initiative has been in place for over a decade, it has not achieved the results expected.

Deputy Director Jack Nolish has agreed to become the Agency's digital "czar." While we are in a challenging environment when it comes to investment in technology infrastructure, we have no choice but to improve and advance. I appreciate Jack taking on this issue. I expect he will be tapping into many of you for your thoughts on improvements as we progress.

Lastly, I have an open-door policy and am glad to speak with any member of the Section on Agency issues. Please feel free to say "hello" if you see me in the halls, or to call my office at (517) 322-1106. ✖

Board of Magistrates Update

By Jay Quist, Chief Magistrate

This will provide a brief summary of what is happening at the Board of Magistrates. I was appointed as the Chief Magistrate in late January 2011. We have 17 magistrate positions; 14 of them are filled. I am pushing the QAC to assemble a list to fill the other three positions. When we add new magistrates, hopefully in the next few months, at least two full-time positions will be added to Southeast Michigan. The other place we need help is up north. I will probably have someone take over Tom Moher's Traverse City docket. At the present time, however, Magistrate Moher is still handling Traverse City.

An Executive Order was issued in February 2011 placing the Board of Magistrates under a new entity called the Michigan Administrative Hearing System. At this point, I do not anticipate that attorneys or the general public

will realize any appreciable difference as a result of this reorganization. I think any changes will be behind the scenes and administrative in nature.

Finally, I sent a memo to the magistrates in late January 2011. The primary change I want to make from the last administration is an emphasis on issuing opinions in a timely manner. I am requiring that magistrates issue all opinions within 42 days from the close of the record, consistent with the applicable administrative rule. A Board of Magistrates meeting is scheduled for May 6. At that time, I will see how the magistrates are progressing on this and other issues. I and the other magistrates are here to serve the public. Therefore, if you have any questions or concerns, please feel free to call or send me an e-mail. ✖

Michigan Workers' Compensation Appellate Commission Update

By Gregory A. Przybylo, WCAC Chairperson

Greetings,

As many of you know, Governor Snyder asked me to assume the responsibilities as the Chairperson for the Worker's Compensation Appellate Commission. I extend an offer to all of the section members to assist me as I attempt to identify policies or procedures that need alteration. Please communicate your ideas to the section counsel. However, I caution that, as we seek to change policy and procedure, the old policies control and will be enforced.

The Appellate Commission will become one of several administrative bodies encompassed in the new Michigan Administrative Hearings System, effective April 25, 2011. When we transition into MAHS, Mike Zimmer who serves as the Executive Director of MAHS, assumes many administrative responsibilities for the WCAC. Mike's years of experience with administrative adjudications provides substantial opportunity to migrate ideas into our system.

And in case anyone missed it, the first budget proposal defunded the WCAC. Because this is a proposal, I urge patience. Because this is a budget proposal, I urge us all to find ways the system could operate in a more cost effective manner.

Given the uncertainty of the immediate and long term future, this will be a very short message. However, I want you to know that your concerns over motions to extend time and the attorney recipient rule have not gone unnoticed. When some of the dust settles, I intend to address those issues. ✂

Workers' Compensation Section Annual Meeting

June 16-18, 2011

Park Place Hotel - Traverse City, MI

Destination:

The Park Place Hotel is a recently renovated hotel in the heart of Traverse City, within walking distance of shopping, dining, and recreation activities (including the beach). For more information, visit www.park-place-hotel.com.

Registration process:

- **Step 1: Reserve your hotel room.**
Contact the Park Place Hotel at 231-946-5000 to reserve your room(s). A block of rooms with a base price of \$139.95 has been set aside for our group.
- **Step 2: Watch your email.**
Details about the meeting, cocktail parties, and dinner — along with meeting registration information — will be emailed in the coming weeks.

Please plan to attend.
Families welcome.