



# Negligence Law Section

## **NO-FAULT FIX? HIRE AN ATTORNEY!**

I started practicing law in 1992. I have always worked for the same firm, practicing primarily in the area of automobile negligence law. Michigan's no-fault system has always been under attack. Back in the 90's there was Proposal C and D, there were countless bills following their defeat, which have never been signed into law. The Coalition to Protect Auto No-fault (CPAN) was formed, dozens of bills continued to be brought up in Lansing with no success. There have been threats of referendums, senators and representatives alike have attempted to push bills to alter, fix, amend or scrap the whole thing. All governors who have led this State over the past 25 years have pledged to make effective changes, none of them have been successful. Recently we have heard from a Mayor, who has not just pushed legislation, but also backed candidates who would push his legislation.

There have been so many personal stories by individuals at all levels of government, some who suffered tragedy themselves, others who had children that suffered devastating injuries in automobile collisions, all talking about the necessity of keeping the no-fault system. There have been hearings upon hearings upon hearings. I personally witnessed a lobby full of people in wheelchairs fixated on the monitors, watching George Sinas speak to a committee about all the reasons our state needs no-fault as well as how we can make effective changes.

To date, no effective changes have been made. Yet hospitals, medical providers, injured victims of automobile crashes, insurance companies and attorneys continue to fight it out in an attempt to support their constituents.

The “problems” we see including the following:

- a. insurance premiums increasing;
- b. uninsured motorists increasing;
- c. claims of fraud increasing;
- d. costs of medical treatment increasing;
- e. inconsistency in rates;
- f. inconsistency in costs;
- g. family-provided attendant care disputed;
- h. temporary unemployment not understood;
- i. household service rates from 1973;
- j. catastrophic claims working in secret;
- k. catastrophic claims controlling settlements;
- l. RBI limits of \$20,000;
- m. an ever-changing and inconsistently interpreted threshold of serious impairment of body function;
- n. uninsured motorists and underinsured motorist coverage not standard;
- o. Medicare and Medicaid liens;
- p. lawsuits increasing because of issues (a) – (o)... and more!

I have come to the conclusion that of all the stake-holders, all of the legislatures, all of the individuals who have testified on this issue, those in the best position to offer advice on how the no-fault system can most effectively work, and how premiums can be lowered, are the attorneys who are members of the State Bar of Michigan Negligence Section. These attorneys should take the lead to educate those that will be making decisions on these issues.

The Negligence Section is unique in that it is an organization made up of Plaintiff and Defense attorneys. Many of our attorneys have been involved with these issues of a “no-fault fix” since the beginning. Additionally, the attorneys of our section routinely represent all of the stakeholders involved: hospitals, doctors, injured people, and yes insurance companies.

Day in and day out I work at Michigan Auto Law, representing victims of automobile and truck crashes. Half of my practice is made up of lawsuits directly against my client's insurers for denying benefits under the no-fault law. Day in and day out our vice-chair, James Bradley, represents insurance companies fighting against lawsuits brought by victims of automobile and truck crashes. Day in and day out hundreds of our members represent all of these stakeholders in their disputes brought under Michigan's no-fault system.

The stakeholders do not hesitate to hire us to interpret and effectuate their rights under the no-fault law. The legislature, whether the house or senate, could certainly benefit from asking our attorneys to testify at hearings on how, once and for all, our no-fault law can be changed to result in lowering premiums.

Now is the time. We have a new Governor who has been a part of this fight since her days in the senate. We have a committee meeting and holding hearings in the House chaired by Representative Wentworth. The House Select Committee on Reducing Car Insurance Rates has been given the task of finding a way to reduce car insurance rates through making changes to our no-fault law. I can't help but think that our attorneys could appropriately and positively provide this committee with answers that will help them with this task, because of the real world, every day experience our attorneys have in litigating cases under the no-fault law.

I have sat with my vice-chair and talked to him about all of the "problems" and what changes could be made to help with the issue of reducing insurance rates. It is not surprising to me that on 90% of these issues, we can agree on what needs to be done, and yet we represent clients generally opposed to one another on most of these issues.

If asked, we could provide education and recommendations to help decrease insurance premiums, decrease the number of underinsured motorists, decrease claims of fraud, decrease costs of medical treatment, make consistent insurance rates across the board, make consistent

medical costs across the board, help bring stability to family-provided attendant care claims, help define “temporary unemployment”, speak to what, if anything, should be done with a household service claim in 2020, what needs to be done with the catastrophic claims association, why it is imperative that RBI limits are increased, why it is imperative that we codify law on the serious impairment of body function threshold, why it is imperative that uninsured motorists and underinsured motorists coverage is standard, and the importance of Medicare and Medicaid to the overall system. All of this would go a tremendous way to help the legislature with their task of reducing rates while at the same time, dramatically reducing lawsuits.

The Negligence Section of the State Bar for which I now am honored to chair is a tremendous group of attorneys and individuals. Attorneys that fight it out on a daily basis on opposites sides of the V come together with a common goal of supporting our client’s right to a jury trial. In doing so, we often can reach common ground, even though we represent clients who feel very differently about many of the issues involved in litigation. Those same clients may feel very differently about the issues relevant to our no-fault system and fixing what is wrong with that system. However, I am confident that if we are asked, the attorneys of the Negligence Section could present to the legislature, educate them and show them how we agree on a majority of the ways we can make this system work effectively for everyone.