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Michigan Chapter Newsletter / October 2024 Edition



President's Memo By: Marc Godman



What a great last few months it has been for the Michigan Chapter. The planning for the Annual Fall Seminar began and we had a wildly successful Networking Session at Hockeytown Café/Comerica Park. I want to thank all the members who were able to join us as well as the vendors who helped make that event such a great day. I'm already looking forward to next year's event. And speaking of the fall seminar, with registration now closed, we are at 190 attendees which is more than last year and I am so grateful that this great event is again drawing a large crowd. Jennifer Humphrey and her committee have been hard at work to bring you some amazing speakers/topics.

For those who were able to attend the national conference in IASIU, there was huge focus on AI, so I would urge everyone to start studying up on as much as you can in regards to this technology. The conference also had many other good topics on medical billing, legal updates, etc. If you weren't able to attend this year, start making a push with your company now to set aside a training budget so that you will be able to attend next year's conference in Denver. Training play such a huge factor in making sure that we stay the most knowledgeable investigators in the industry.

I continue to be grateful for all the hard work each and every one of you do on a daily basis and your chapter will continue to bring you amazing training opportunities at not only our seminars but our membership meetings as well. And, as always, be careful out there.

Counsel's Corner

THERE IS HOPE FOR INSURERS IN THE DEFENSE OF FRAUDULENT
PERSONAL INJURY PROTECTION CLAIMS:

A LOOK AT THE MICHIGAN SUPREME COURT OPINION OF
WILLIAMSON V. AAA OF MICHIGAN

By: Stephanie L. Strycharz, Esq. and Christopher B. Best, Esq.
of Segal McCambridge

A string of published opinions coming from the Michigan Court of Appeals and the Michigan Supreme Court dating back to 2017, including *Shelton v. Auto Owners*, 318 Mich App 648 (2017), *Meemic Insurance Company v Fortson*, 506 Mich 287 (2020), and *Haydawn v Farm Bureau Ins Co*, 332 Mich App 719 (2020), has made it increasingly more difficult for insurers to defend against fraudulent insurance claims for Michigan No-Fault personal injury protection benefits.

However, a recent Michigan Supreme Court opinion offers new hope to insurers, upholding an insurer's right to investigate and deny fraudulent insurance claims made at every state of the claims process.

Williamson v AAA of Michigan

In a unanimous opinion published on June 11, 2024, *Williamson v AAA of Mich*, ___ Mich ___ (2024), Docket no. 165131, the Michigan Supreme Court has set a clear precedent regarding the impact of fraudulent claims made during a lawsuit.

The Court held that MCL 500.3173a(4) provides that a person who presents a statement to the Michigan Automobile Insurance Placement Facility ("MAIPF"), or to an insurer to which the claim is assigned through the MAIPF for payment or other benefit knowing that the statement contains false information concerning a fact or thing that is material to the claim commits a fraudulent insurance act under the statute, even when that statement is committed during the course of litigation. *Id.*

The background of this case presented a set of facts that were egregious and clearly reeked of fraud. Charles Williamson was injured as a pedestrian in a car accident in 2018. Williamson was struck as a pedestrian by a motor vehicle. Williamson applied for no-fault Personal Injury Protection/Personal Protection Insurance ("PIP") benefits through the MAIPF as he did not have coverage of his own.

The MAIPF then assigned Williamson's claim to AAA. AAA denied the claimed PIP benefits and Williamson commenced suit for breach of contract and also seeking declaratory relief. In 2019, Williamson died in an unrelated accident. After his death, his daughters Porsha Williamson and Lateshea Williamson continued the lawsuit as representatives of his Estate. As such, the Estate took over the lawsuit and answered interrogatories.

The Estate indicated in its interrogatory responses that replacement services and attendant care were being claimed. The Estate attached replacement services and attendant-care forms identifying Lirrice Brown as the service provider for those claimed benefits. The interrogatory responses incorporated those forms by saying "see attached", when asked about the loss of services being claimed as well as attendant care. However, the Estate included forms for replacement services and attendant care rendered to Williamson *after he had passed away*. Latesha Williamson signed the interrogatory responses on behalf of the Estate indicating that she believed the answers to be true and accurate.

AAA filed a motion for summary disposition under MCR 2.116(C)(10) and attached the interrogatory responses and forms. AAA argued that the Estate was barred from recovery pursuant to MCL 500.3173a(4) because it knowingly made a material misrepresentation in support of its claim by submitting reimbursement forms for services rendered after Williamson had passed away. The trial court granted AAA's motion and concluded that the Estate was barred from recovery pursuant to MCL 500.3173a.

The Court of Appeals reversed in a published opinion, *Williamson v AAA of Mich*, 343 Mich App 496; 997 NW2d 296 (2022), holding that statements made during discovery cannot constitute fraudulent insurance acts under MCL 500.3173a(4). Application for leave to appeal to the Michigan Supreme Court was subsequently granted.

In its June 11, 2024 opinion, the Michigan Supreme Court found the Michigan Court of Appeals erroneously held that MCL 500.3173a(4)'s application is limited to prelitigation statements, only. The court went on to hold that such an interpretation was overly broad, thus reversing the Michigan Court of Appeals.

To begin, the Michigan Supreme Court observed the structure of the MAIPF is to make coverage available to those individuals who do not otherwise have PIP coverage. However, coverage extended by the MAIPF was not without exceptions. One of those exceptions is MCL 500.3173a(4) which concerns fraudulent insurance acts against the MAIPF and insurance entities assigned by the MACP to handle the claims. MCL 500.3173a(4). The Court further observed that under the insurance code, "a person commits a fraudulent insurance act if that person presents to an insurer "a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains false information concerning any fact or thing material to the claim." MCL 500.4503(c).

Notably, for MCL 500.3173a(4) to apply, it must be "part of or in support of a claim to the [MAIPF], or to an insurer to which the claim is assigned under the assigned claims plan, for payment or another benefit." However, the no-fault act does not define the word "claim" and, moreover, MCL 500.3173a(4) does not define the word "claim." The Court acknowledged that it had defined the word "claim" multiple times over the years in prior case law. These definitions have included "a demand for something due or believed to be due", "a right to something", and "a demand for coverage."

In *Williamson*, there was no other conceivable reason why the Estate would have supplied the answers it did if it was not asserting a "claim" for payment. *Id.* Therefore, the ruling by the Michigan Court of Appeals rule was overly broad because it suggested that once litigation commences, MCL 500.3173a(4) could no longer penalize fraudulent statements aimed at obtaining benefits sought.

The Precedential Effect

After the last several years of appellate decisions which essentially stripped away the rights of an insurer to deny fraudulent insurance claims once upheld in the decision of *Bahriv IDS Prop Case Ins Co*, 308 Mich App 420 (2014), the opinion of *Williamson v AAA* acknowledges that nothing in the statute suggests that the legislature intended to permit fraudulent representations by a claimant once a lawsuit is filed.

This opinion is a victory for the MAIPF and insurance companies assigned to handle claims through the MAIPF. *Williamson* now establishes two important propositions: (1) claim submissions, and the investigation of those submissions, do not cease merely because a lawsuit has been filed; and (2) a claimant may not commit fraud after a lawsuit has commenced and still be entitled to pursue its claim when the claim is submitted to the MAIPF or insurers assigned to handle MAIPF claims.

Although the opinion specifically addresses MCL 500.3173a(4) and the rights of the MAIPF and those insurers assigned to handle MAIPF claims, the precedential effect will likely yield a favorable result for private insurers, as well. If a litigant can no longer benefit from making fraudulent representation in the context of a lawsuit involving the MAIPF or its assigned insurer, logically, the same litigant should not benefit from false representations submitted to another insurer merely because a contact existed between the parties. This is particularly true when the majority of insurance contracts which form the basis for the lawsuit contain a provision excluding coverage for fraudulent claims.

Conclusion

The Michigan Supreme Court opinion encourages honesty and integrity throughout the entire claims process, a sentiment previously

Upcoming Michigan Events

10/10/24: Michigan IASIU Chapter Fall Seminar at Schoolcraft College in Livonia, MI. Registration for this event has been closed. Hope to see you there!

10/16/24: MAVTI 2024 Fall Training Conference being held at the Michael A. Guido Theater at the Ford Community & Performing Arts Center located at in Dearborn, MI from 8:00 AM – 2:00 PM. The training is FREE for all MAVTI members. For non-members, there is fee of \$20.00. To register for this event, visit: www.mavti.org.

11/21/24: Michigan IASIU Chapter General Membership meeting and training located at Frankenmuth Insurance in Frankenmuth, MI from 9:30 AM – 11:00 AM. Speaker topic TBD.

11/21/24: In person CIFI testing will be held at Frankenmuth Insurance in Frankenmuth, MI starting at 1 PM. You will need to submit your application to take the CIFI exam: <https://www.iasiu.org/page/CIFI>. Upon completion and acceptance to take the exam, please notify Estella Grablick at estella.grablick@fmins.com or (989) 480-6722.

01/16/25: Michigan IASIU Chapter General Membership meeting and training located at AAA Insurance in Dearborn, MI from 9:30 AM – 11:00 AM. Speaker topic TBD.

04/25/25: Join MI IASIU for a walk at the Detroit Zoo to raise money for Shades of Pink. To register for this event, visit: <https://shadesofpinkfoundation.goodworldnow.com/c/2025-team-michigan-iasiu>

08/24/25 – 08/27/25: Save the Date! IASIU annual conference being held in Denver, Colorado. For more information, visit: www.iasiu.org.



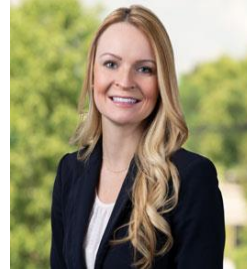
Additional Continuing Education Opportunities

Read SIU today! Once you've read past issues you can take quizzes to gain two (2) CE credits good towards your CIFA, CIFI or CIFR designation(s).

Quizzes are only available for the four (4) most recent issues. For the most up to date version of the magazine, visit: <https://www.iasiu.org/page/SIUTodayLibrary>

encouraged in *Bahri v IDS, supra*. The decision of *Williamson v AAA* is a refreshing win for insurers working to combat insurance fraud, as it clarifies that fraud can exist beyond the pre-suit claims process and litigants should not benefit from dishonesty simply because a lawsuit is pending.

About the Authors



Stephanie Strycharz is a Shareholder at the law firm of Segal McCambridge Singer & Mahoney, Ltd where she specializes in the defense of insurance carriers and their insureds in a variety of claims. Mrs. Strycharz has taken more than a dozen cases to verdict as lead trial counsel. She has successfully secured numerous defense verdicts in favor of insurers who denied personal injury protection claims containing fraudulent representations.

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Christopher Best is a senior associate with Segal McCambridge Singer & Mahoney, Ltd where he concentrates his practice on the defense of personal injury protection claims with a specific focus on uncovering the patterns and practices of local medical providers who excessively and unnecessary treat patients, often following minor motor vehicle accidents.

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By-Laws Committee Update

By: Shelly Lee Griffin, Counsel for Michigan IASIU
Plunkett Cooney, Partner

The Board created a Bylaws Committee to review and update the existing Bylaws. This was necessary as these were last updated in 2014. Also, the Committee sought to align the Chapter's Bylaws with the national IASIU's Constitution and Bylaws which were revised in May 2023.

The following is a summary of the proposed revisions to our Chapter's Bylaws. First, the format has been changed for easier reading and review. Second, various sections were revised, added, or deleted. For ease of reference, the revision and additions appear in italicized type, and the portions that were deleted appear in crossed out type.

If you have any questions or comments regarding the revised Bylaws, please contact the Chapter's Legal Advisor, Shelly Lee Griffin via email at sgriffin@plunkettcooney.com or by phone at (248) 790-1015.

ARTICLE ONE – NAME AND PURPOSES

Section 1.01 Name.

A. Revised The registered office of the Corporation in Michigan *shall be the address on file with the State of Michigan's Department of Licensing and Regulatory Affairs* until otherwise established by an amendment by the Board of Directors and a record change is filed with the Department of State of Michigan in the manner prescribed by law.

Section 1.05 – Non-Profit Organization. Added

The Association is organized and shall be operated for charitable and/or educational purposes within the meaning of Section 501 (c) (6) of the Internal Revenue Code.

ARTICLE 2- NOTICE – WAIVERS - MEETINGS GENERALLY

No changes

ARTICLE THREE- MEMBERS

Section 3.01- Annual Meeting.

A. Revised. The Board of Directors may fix the date, time, *and location*, of the annual meeting of the Members, *either in person or virtually*. If no such date, time, *and location* is fixed by the Board, the meeting for any calendar year shall be held on the Third Thursday of each January.

B. Added. *The annual business meeting shall be conducted according to Robert's Rules of Order.*

Section 3.12. Application and Dues

B. Added. *This organization does not discriminate on the basis of race, color, national origin, sex, disability, age, sexual orientation, and gender identity.*

ARTICLE IV- OFFICERS

Section 4.01 Officers/ Terms in Office

C. Revised. If the office of the President shall become vacant, ~~he/she will be replaced by~~ the current Vice-President *will assume the position of President* for the remainder of the former President's term.

D. Revised. ~~All votes must be in person. There will be no absentee voting. (Amended in 2021 by special vote)~~ Votes may be submitted remotely All votes must be in person unless authorized by the Board with 30 days' notice of the election.

ARTICLE V- GOVERNMENT

5.09- Legal Counsel- Revised. The Board of Directors may, by two-thirds majority vote, appoint an individual or firm to serve as legal counsel to the organization *for a term of three years*. The rate of reimbursement, if any for the appointed legal counsel of the organization shall be determined by the Board of Directors. The Board of Directors shall determine the duties and responsibilities of the legal counsel.

5.10- Board of Directors- Powers- Personal Liability

E. Liability Insurance -added. The procurement of liability insurance shall be the responsibility of the Board of Directors. The payment of premiums shall be the Treasurer's responsibility. The Treasurer shall verify payment of the premium for the liability insurance at the next Board of Directors meeting or General membership meeting, whichever is first.

5.11- Vacancies- Board of Director or Officer-

Section 5.10. C. added. ~~However,~~ *The Board may not appoint a Vice-President or President. In the event a President can no longer serve, the Vice-President will assume the duties and role of the President effective upon the vacancy. A special election to elect a new Vice -President will be held within 90 days of the vacancy by the President or at the next General Election whichever comes first.*

5.11- Removal by the Board-Revised

The Board of Directors may, by a majority vote declare vacant the office of a Director/Officer *based on one or more of the following:*

1. Who has been judicially declared of unsound mind,
2. Who has been convicted of an offense punishable by imprisonment for a term of more than one year,
3. Who breaches or fails to perform the statutory duties of said Director's office and the breach or failure constitutes self-dealing, willful misconduct, or recklessness,

ARTICLE IV- AMENDMENTS

No changes.

ARTICLE VII- INTERNATIONAL MEMBERSHIP

7.01- Membership- Revised/Added. The officers, Directors and Members of the Corporation are authorized to execute such documents, petitions, agreements, and reports with or to the International Association of Special Investigation Units ("International") as are required to obtain and maintain membership of the Corporation as a chapter of the International. *The Chapter must submit an Annual Report, or a report to be approved by the International's Board of Directors, within thirty days after the chapter's annual meeting during which officers and directors of the chapter are elected.*

About the Author:



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Shelly Lee Griffin is a partner in Plunkett Cooney's Insurance Coverage Practice Group. With over 25 years of experience, Ms. Griffin represents insurance companies in litigation involving property coverage, first-party and third-party property-casualty insurance, coverage disputes, and fraud and arson investigations.

An experienced trial attorney, Ms. Griffin is licensed to practice in Michigan's state and federal courts. Her litigation practice also includes expertise in the areas of construction liability, employment law and multi-party complex litigation with particular expertise in gas explosion cases.

Ms. Griffin is a frequent speaker on insurance coverage topics for several professional, industry and trade organizations, and she is a content contributor to national insurance publications. Her professional memberships include the Claims and Litigation Management Alliance, DRI – The Voice of the Defense Bar, Property & Liability Resource Bureau, Michigan Defense Trial Counsel, and Women Lawyers of Michigan.

In addition, Ms. Griffin is a longtime member of the International Association of Special Investigation Units (IASIU). Her involvement in IASIU includes the organization's U.S. chapter, and she serves as the legal adviser to the Michigan chapter.

In Remembrance of:



Deputy Sheriff Bradley J. Reckling

On June 22, 2024, Deputy Sheriff Bradley J. Reckling was shot and killed as a member of the Oakland County Auto Theft Unit while surveilling a stolen vehicle. Deputy Reckling left behind his wife, three children, and a fourth on its way. He also leaves behind a team of men and women who are devastated by his loss.

As members of the Michigan Chapter of IASIU, we share in the grief of Deputy Reckling's family, friends and colleagues. As part of the small circle of auto theft investigators, his sacrifice strikes us at our core. Many of us have had direct contact with the members of the auto theft units and are grateful for their work and sacrifice.

We, the members of this organization, understand that auto theft is often considered a "non-violent" crime. The loss of Deputy Reckling, along with those law enforcement or civilians, who have been hurt or killed during the stealing of or use of a stolen vehicle in a crime show otherwise.

This organization will continue to support those members of the auto theft investigation and prevention community. We will do what we can to educate our members and the public on the damage that auto theft has on our communities and how we all can help prevent future tragedies like this.

The Oakland County Auto Theft Unit, among others in the State are funding in large part by grants from the Michigan Automobile Theft Prevention Authority which uses funds from insurance policy premiums paid for by the citizens of the State.

About The Michigan Defense Trial Counsel (MDTC)



By: Frederick V. Livingston of Novara, Tesija, Catenacci, McDonald & Baas / Vice President of MDTC

The Michigan Defense Trial Counsel (MDTC) is an organization established in 1979 with the goal of promoting the Defense Bar and supporting civil defense attorneys throughout the state. MDTC is comprised of top civil litigators, and their influence is visible through contributions such as Amicus Briefs invited by the Supreme Court, respected quarterly publications, and timely seminars.

The MDTC provides its members access to various listservs to discuss topics related to liability and medical malpractice, and to exchange information on specific experts, medical treatments, and case strategies. Insurance affiliates benefit from access to a dedicated SIU listserv, event attendance at member rates, quarterly publications, and a brief bank—all at no cost.

MDTC operates under strict terms of service to prevent the misuse of information and ensure ethical practices, protecting against allegations of collusion or unfair trade practices. The terms of service outline both outlines that no information provided constitutes legal advice and that individuals affirm that it will not be used to engage in unfair trade practices.

An insurance investigator seeking to become an Affiliate will just need to submit an application form; please do not sign up through our website. There is no need to fill out anything beyond your information and membership level. Upon submission of the application, the Affiliate will present a statement of good standing from their organization's administrator. Upon receipt, the administrator will send the application to the MDTC board for nomination and confirmation.

The page can be found here: <https://www.mdtc.org/insurance-affiliates-information/>



The Michigan Chapter of IASIU is hosting a CIFI exam testing at Frankenmuth Insurance located at 1 Mutual Avenue located in Frankenmuth, MI on 11/21/24 following our general membership meeting. The testing will start at 1:00 PM. This will allow you the opportunity to eat lunch after the general membership meeting before you take the exam.

If you would like to register for this exam, you will first need to submit your application to take the CIFI exam: <https://www.iasiu.org/page/CIFI> Upon completion and acceptance to take the exam, please notify Estella Grablick at estella_grablick@fmins.com or (989) 480-6722 as she will need to order your testing material to take the exam on the scheduled date.



The MI IASIU Chapter is now accepting nominations for (3) Officer positions (Vice President, Secretary and Treasurer) and (3) Board of Director positions to be voted on during our January 16, 2025 General Membership Meeting. Please send your notification of interest along with a photo & bio to Steve Penny @ steve.penny@usaa.com. This is a great way for members of the chapter to get further involved. Each elected Officer or BOD member is required to participate in at least one committee and will need to attend the scheduled board meetings. If you have any questions about the BOD responsibilities, please reach out to anyone of the Officers or current BOD Members.

Join Michigan IASIU for A Walk at the Zoo In support of Shades of Pink Foundation



To register go to: <https://shadesofpinkfoundation.goodworldnow.com/c/2025-team-michigan-iasiu> or scan the QR code below.

Sign up for team 2025 Team Michigan IASIU

Early bird registration ends 1/31/2025, at \$35.00 adults \$25 child/teen (6-17 yrs) \$10 little ones (2-5) under 2 free!

After 2/14/2024 registration cost is \$45.00

Where: Detroit Zoo 7:00 am – Noon

When: April 26, 2025

Who are Shades of Pink? Shades of Pink is a Michigan based non-profit specifically designed to help defer the costs individuals suffering from Breast Cancer face. Every year more than 8,000 Michigan residents are diagnosed with breast cancer, 3,200 will face significant difficulty paying healthcare costs, 2,460 will have problems affording necessary cancer medications, forcing 1,840 patients to cut pills in half or skip doses. 2,000 will use up all their person savings for medical bills and 800 will be forced to file for bankruptcy. Grants from Shades of Pink cover the everyday living expenses that aren't covered by most other support organizations, including rent/mortgage payments, utilities, childcare, food assistance, breast cancer support equipment, hospital co-pays, medication costs, and transportation costs, back credit car payments, and any other bill a family not in treatment might have.

Come join MI IASIU for this family friendly event and stay all day at the zoo for added fun and support for Shades of Pink!

