



Attorney Recipient of Leaders in the Law Award



T. Joseph Seward

We are pleased to announce that Joe Seward, managing partner of the Firm, has been recognized by Michigan Lawyers Weekly with the “Leaders in the Law” award.

Michigan Lawyers Weekly is a weekly publication that provides legal news, including rulings, verdicts, settlements, opinions and discipline matters to attorneys throughout the state of Michigan.

The publication’s Leaders in the Law award honors 25 members of the legal community who possess the ability to achieve suc-

cess in their respective practice, while also displaying the strength of character that transcends results; exemplifies the noble tradition of the legal profession; is passionate and aggressive on behalf of both clients and the legal community; and has a record of winning cases, solving problems or coming to judicial conclusions that reflect the utmost integrity.

Founder of CMDA Owen Cummings says, “It comes as no surprise that Joe was selected to receive the Leaders in the Law award. He is a hard working and aggressive attorney who obtains outstanding results for his clients.”

Please join us in congratulating Joe on this fantastic achievement.

Getting Your Priorities Straight

Determining Coverage Under the Michigan No Fault System



Melissa Stewart

The Michigan No Fault system provides two mechanisms of recovery when a person is injured in a motor vehicle accident. First party benefits provide the claimant with medical expenses, wage loss, replacement services and, in the case of death, survivors’ loss benefits. Meanwhile, third party benefits provide the claimant with compensation for pain and suffering. The focus of this article is

on first party benefits only.

With regard to first party benefits, at its most fundamental level, the Michigan No Fault system provides that each driver’s personal insurance company is responsible for the damage and injuries that driver sustains in a car accident, regardless of fault.

This principle can be seen at work in the classic scenario

where two insured drivers collide, file claims with their individual no fault insurers, and receive benefits pursuant to the terms of their individual no fault insurance policies.

But, consider a different scenario: Imagine that a pedestrian with the right-of-way is struck in a crosswalk by a driver who has run a red light. Whose insurance company is responsible for the pedestrian’s injuries? The answer is not as clear as it may first appear.

Though it may seem as though the driver should be responsible for the pedestrian’s injuries, in reality, there is very little chance that this will be the case. This is because the Michigan No Fault system is governed by a series of priorities, which assign responsibility for damage and/or injuries that arise out of the

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Getting Your Priorities Straight (cont.)

operation of a motor vehicle.

The list of standard priorities is relatively straightforward, even if — as the scenario described above demonstrates — the facts of a motor vehicle are not.

The first order of priority is the injured party's own no fault insurance policy. Returning to the example, our pedestrian would file a claim for injuries arising out of the accident with his own no fault insurance carrier — even though his vehicle was not involved in the accident in any capacity. This is because in Michigan, no fault insurance actually attaches to the individual, rather than the vehicle.

But, what happens if our pedestrian does not have a vehicle covered by a no fault policy of insurance? In that circumstance, we must turn to the second level of priority, which would be a no fault policy of insurance maintained by our pedestrian's resident relative, i.e., a spouse or over familial relative residing in the same home as our pedestrian.

Assuming our pedestrian has no resident relative with an applicable no fault insurance policy, the next level of priority available is the no fault insurance policy of the owner of the vehicle, regardless of whether of the owner was driving the vehicle at the time of the accident. We look to the owner instead of the driver because, as noted previously, No Fault insurance in Michigan flows through the individual, rather than the vehicle.

Only if the owner of the vehicle fails to carry an active policy for No Fault insurance — or, if the owner and driver are one-and-the-same — would our pedestrian be entitled to file at claim for injury with the driver's insurance. That is, in our pedestrian versus motor vehicles scenario, the vehicle driver's insurance is actually the fourth order of priority, even if the driver is 100 percent at fault for the accident.

Recognizing that situations may arise where even after sifting through four levels of priority, no insurance would be available to cover a claimant's injuries, the Michigan Legislature provided a fifth and final priority to serve as a "catch all" for any remaining, valid claims for first party no fault insurance benefits. The Assigned Claims Facility is a mechanism by which the State of Michigan will assign a claim to a no fault insurer to provide benefits, even though that no fault insurer otherwise has no relationship to the accident. The purpose of the Assigned Claims Facility is to insurance that persons such as our pedestrian are not left holding the bag for injuries arising out of the operation of a motor vehicle.

trian, is equally applicable to an individual injured while riding as a passenger in a motor vehicle. Meaning, the first level of priority would be the passenger's own insurance, followed by the insurance of a resident relative, the insurance of the vehicle owner, the insurance of the driver and, finally, the Assigned Claims Facility.

A final, critical caveat to our analysis is this: Michigan law requires the owner of a vehicle to maintain a valid policy of no fault insurance. If a driver fails to do so, he will not be entitled to any no fault benefits — including pain and suffering — nor will he be entitled to make a claim with the Assigned Claims Facility, even if the other driver is totally at fault. Thus, it is essential that all vehicle owners in Michigan maintain proper no fault coverage.

As this exercise clearly demonstrates, determining the precise no fault carrier responsible for providing coverage for damage and injuries arising out of the operation of a motor vehicle can be a complex endeavor. Accordingly, it is advisable to consult with an attorney whenever you are involved in an injury accident — regardless of your personal fault — to ensure that your rights are protected.

Melissa Stewart

A Roadmap To Priority

- 1) Turn to the claimant's own insurance. If no such policy exists ...
- ↓
- (2) Turn to the insurance of the claimant's resident relative. If no such policy exists ...
- ↓
- (3) Turn to the insurance of the vehicle owner. If no such policy exists ...
- ↓
- (4) Turn to the insurance of the driver. If no such policy exists ...
- ↓
- (5) Turn to the Assigned Claims Facility.

Melissa Stewart is an attorney in our Livonia office where she concentrates her practice in the areas of plaintiff personal injury, municipal law and appellate law. She can be reached by calling (734) 261-2400 or via e-mail at mstewart@cmda-law.com.

COMMUNITY COLLEGE CORNER

The Campus Community Set for High Noon Showdowns



Patrick R. Sturdy

Community college efforts to keep the campus community safety might just get a little harder.

Legislation has been proposed in the Michigan Senate that would allow students to carry concealed weapons into the classroom. Under current legislation, concealed weapons may not be carried in the dormitories or classrooms of community colleges and universities are included within the specifically identified areas. This restriction would be eliminated if the proposed legislation passes. The senate bill has been referred to the appropri-

ate committee for review.

The "College Corner" is making its grand debut in our newsletter this month. Patrick Sturdy, an attorney in our Livonia office, plans on writing a brief article in each newsletter that will focus on current issues facing community colleges. Patrick represents many community colleges throughout Michigan. We hope all our clients find the new section interesting and informative.

If you have any questions about what you have read or want additional information, Patrick can be reached by calling (734) 261-2400 or via e-mail at psturdy@cmda-law.com.

Patrick R. Sturdy

Attorney Profile: Robert L. Blamer



Robert L. Blamer

In this month's newsletter Robert L. Blamer is profiled. Bob joined the Firm as a law clerk in 1979. His first office at CMDA was the size of what most people would consider to be a very small closet. Through determination and hard work, in 1988 Bob was one of the first non-founders of the Firm to be made a partner. In 1993 he became an equity partner at the Firm.

Bob is the head of the Plaintiff's Personal Injury practice area and focuses his practice on helping injured people in many types of negligence actions, workers' compensation claims and social security disability claims. While a majority of the Firm's work concentrates on the defense side of the law, we realized long ago that a plaintiff group was necessary to make the Firm the full-service one that it is today. Bob has handled, tried and resolved cases with tremendous success not only in Michigan, but throughout the country. His trial experience ranges from representing automobile negligence victims to complex professional negligence matters, products liability actions and complicated plane crash matters.

Vicki DeVitis, who has been working with Bob as his secretary for 32 years, explains, "Bob is very considerate in all ways and treats his clients with kindness and respect. He works hard to obtain the best outcome possible on all his clients' cases." One of the most rewarding aspects of Bob's career is that, because of the close relationship he strives to have with his clients, many of them become his friends.

Bob received a Juris Doctor degree from Wayne State University and a Bachelor of Arts degree from Central Michigan University. He is a member of the State of Michigan-Character & Fitness Committee, Livonia Bar Association (past president) and Michigan Association for Justice.

Additionally, he is on the advisory board for Community Opportunity Center, which is a non-profit housing corporation that provides housing and care for developmentally disabled persons. Bob is active in the Higgins Lake Property Owners Association as a volunteer diver, is a volunteer legal advisor and Commodore to the Higgins Lake Boat Club and a volunteer legal advisor for Prosperity Investment Syndicate.

Bob resides with his wife Carrie of 36 years in Whitmore Lake, MI. They have two adult children, Danielle (Mike) and Kevin (Kelly) and one beautiful granddaughter, Avery. Bob enjoys boating, scuba diving, golfing, basketball, following University of Michigan sports and military history. You can contact Bob at (734) 261-2400 or rblamer@cmda-law.com.

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Our Vision

To meld our legal expertise, professional support staff, technical resources and variety of locations to deliver first rate legal services at a fair value to a full range of business, municipal, insurance and individual clients.

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Comments and questions regarding specific articles should be addressed to the attention of the contributing writer. Remarks concerning miscellaneous features should be addressed to the attention of Jennifer Sherman.

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