

Michigan County Road Commission Self Insurance Pool
ON Notice thru 12/06/2017

Claim Number	Claimant Name	Open/Clos	Member	Reserve Type	Reserve Balance	Paid	Collection	Incurred	Description
AL36002016008206	Esbrook/Henschel,	ON	Iron County Road Commission	Expense	\$ 1,223.89	\$ 18,776.11	\$ -	\$ 20,000.00	TPV hit RC Grader TP Fatality
	Esbrook/Henschel,	ON	Iron County Road Commission	Litigation	\$ 990.23	\$ 11,009.77	\$ 1,000.00	\$ 11,000.00	TPV hit RC Grader TP Fatality
					\$ 2,214.12	\$ 29,785.88	\$ 1,000.00	\$ 31,000.00	
AL39002016008205	Hill, Kelly	ON	Road Commission of Kalamazoo County	Expense	\$ 0.01	\$ 84.87	\$ -	\$ 84.88	Driver claiming medical issues after
	Hill, Kelly	ON	Road Commission of Kalamazoo County	Litigation	\$ 1,329.00	\$ 7,391.00	\$ 1,000.00	\$ 7,720.00	Driver claiming medical issues after
					\$ 1,329.01	\$ 7,475.87	\$ 1,000.00	\$ 7,804.88	
AL40002016008211	Kruck,	ON	Kalkaska County Road Commission	Expense	\$ 296.04	\$ 14,703.96	\$ -	\$ 15,000.00	alleged RCV ran stop sign and hit TP
	Kruck,	ON	Kalkaska County Road Commission	Litigation	\$ -	\$ 47,114.50	\$ 1,000.00	\$ 46,114.50	alleged RCV ran stop sign and hit TP
					\$ 296.04	\$ 61,818.46	\$ 1,000.00	\$ 61,114.50	
E&O14002017008265	Bruens, Ricky	ON	Cass County Road Commission	Expense	\$ 440.06	\$ 1,059.94	\$ -	\$ 1,500.00	RC worker filed discrimination notice
	Bruens, Ricky	ON	Cass County Road Commission	Litigation	\$ 1,107.50	\$ 18,892.50	\$ -	\$ 20,000.00	RC worker filed discrimination notice
					\$ 1,547.56	\$ 19,952.44	\$ -	\$ 21,500.00	
E&O25002015008104	McClane, Joyce	ON	Genesee County Road Commission	Expense	\$ 4.34	\$ 5.66	\$ -	\$ 10.00	Employee alleges race discrimination
	McClane, Joyce	ON	Genesee County Road Commission	Litigation	\$ 4,434.50	\$ 1,765.50	\$ -	\$ 6,200.00	Employee alleges race discrimination
					\$ 4,438.84	\$ 1,771.16	\$ -	\$ 6,210.00	
E&O34002016008048	Swindell, Christopher	ON	Ionia County Road Commission	Expense	\$ 73.85	\$ 26.15	\$ -	\$ 100.00	age discrimination
	Swindell, Christopher	ON	Ionia County Road Commission	Litigation	\$ 10,987.50	\$ 4,012.50	\$ -	\$ 15,000.00	age discrimination
					\$ 11,061.35	\$ 4,038.65	\$ -	\$ 15,100.00	
E&O03002017008281	Loud, Lucy	ON	Allegan County Road Commission	Expense	\$ -	\$ 4.20	\$ -	\$ 4.20	Asphalt Fumes affecting health
	Loud, Lucy	ON	Allegan County Road Commission	Litigation	\$ -	\$ 5,294.50	\$ -	\$ 5,294.50	Asphalt Fumes affecting health
					\$ -	\$ 5,298.70	\$ -	\$ 5,298.70	
GL34002017008292	Foy, Darcy	ON	Ionia County Road Commission	Expense	\$ 465.58	\$ 34.42	\$ -	\$ 500.00	TP tractor alleges they were cut off b
	Foy, Darcy	ON	Ionia County Road Commission	Litigation	\$ 3,251.00	\$ 1,749.00	\$ -	\$ 5,000.00	TP tractor alleges they were cut off b
					\$ 3,716.58	\$ 1,783.42	\$ -	\$ 5,500.00	

MCRCSIP CLAIMS REPORT
AL36002016008206

Esbrook/Henschel
D/A: 01/18/2017

vs Iron County Road Comm.
LOCATION: US-2 Iron River, MI

PLAINTIFF COUNSEL:

DEFENSE COUNSEL: William Henn, Henn Lesperance PLC

ALLEGATIONS IN COMPLAIN: A road commission Motor Grader was working along US-2, just west of Iron River, MI. A motorist and family were traveling East on US-2, suddenly struck the rear end of the road commission grader, causing damage to both vehicles, causing injuries, and a fatality (14 year old male front seat passenger). Several emergency personnel including police, EMT & fire were called to the scene via 911 call.

FACTS OF ACCIDENT: At the time of the impact, the grader was mostly in the east bound lane, traveling/facing east. The weather was clear with morning sunshine, and the road surface conditions were dry per UD-10. The work activity of the two person crew was to remove snow from the forward side of the guard rail, by blading and sweeping snow to the end of the guard rail. The impact appeared to push the grader forward and left onto opposite side of the guard railing. It is noted that the warning lights were activated on the grader. Once of the road commission employees realized no one was exiting the third party seconds after impact, and broke the rear end window of the pickup with a hammer. All occupants exited the rear window, except the deceased.

UPDATE (05/15/2017): William Henn was contacted almost immediately following the accident, and retained expert David Sallmann to inspect the road grader and the documentation of the accident. On April 20, 2017, we were notified that Mr. Sallamann stated he had obtained all of the necessary information for his inspection and gave approval for the grader to be released for repairs and returned to service. It is stated that Mr. Henn's office has uncovered nothing to suggest that the road commission bears any legal responsibility for the incident, and has no indication that litigation will ensue. Their office will be closing their file at this time, but will keep us updated should anything change.

UPDATE (08/30/2017): NO UPDATE

UPDATE (12/06/2017): NO UPDATE

MCRCSIP CLAIMS REPORT
AL39002016008205

Hill, Kelly
D/A: 12/09/2016

vs Road Commission of Kalamazoo County
LOCATION: East H and Sprinkle Rd.

PLAINTIFF COUNSEL: Glenn D. Steeg, Steeg & Glista, P.C.

DEFENSE COUNSEL: William L. Henn, Henn Lesperance PLC

ALLEGATIONS IN COMPLAIN: Plaintiff alleges she sustained injuries in an accident she was in with a road commission vehicle. Plaintiff is alleging that the plow truck caused the accident, as the road commission employee operating the vehicle stated that Ms. Hill's vehicle hit him while he was plowing for the road commission.

FACTS OF ACCIDENT: The road commission employee Mr. Soule was cited on the police report for going too fast and for failing to stop, and it stated that the vehicle driven by Ms. Hill had the right of way. The determination was made to deny the mini-tort by Cathy Greer with Smith, Haughey on the third party claim, as we wanted to know the outcome of the contestation against our driver that was cited. On January 18, 2017 Benjamin Dost with Henn Lesperance attended the informal hearing for road commission drive Mr. Soule, and the officer that wrote the citation did not appear, so the citation was dismissed the road commission driver. The citation was never reinstated, so the incident no longer states that the road commission was at fault.

UPDATE (05/17/2017): On May 5, 2017, Bill Henn sent out a letter to the Plaintiff's attorney letting them know that the road commission intended to auction off the plow truck involved in the incident, and that they would need to contact Mr. Henn's office within 7 days to dispute the sale. The Plaintiff's attorney never disputed this, and the plow truck has been auctioned off. On March 10, 2017, Bill Henn also agreed on denying the mini-tort as he did not want to appear as an admission of guilt.

UPDATE (08/30/2017): No update.

Update (12/06/2017): As of November 27, 2017, a Complaint has not been served. Ms. Hill has retained counsel to represent her, and it is believed that a suit will be filed. We will continue to keep you updated regarding potential litigation.

MCRCSIP CLAIMS REPORT

AL40002016008211

Kruck, Jory

vs. Kalkaska County Road Commission

D/A: 02/19/2017

LOCATION: US 131 Boardman/Supply Roads

PLAINTIFF ATTORNEY: Jeffery M. Mussin, Cockran, Kroll & Associates, P.C.

DEFENSE ATTORNEY: William L. Henn, Henn Lesperance

ALLEGATIONS IN COMPLAINT: Seeking monetary damages from an intersection accident that happened between Kruck and a Road Commission Plow Truck.

FACTS OF ACCIDENT: At 10:00 p.m. on Sunday, February 19, 2017, Jory Kruck was driving south on US-131 when she saw a Kalkaska County snowplow driver approach a flashing red light at the highway's intersection. Ms. Kruck alleges that Jeremy Larabee, while operating a plow truck while in his capacity as a Kalkaska County Road Commission Employee, did not stop and hit Ms. Kruck's 2015 Chevy Silverado directly in the middle on the driver's side.

Update (04/12/2017): Obtained the ECM data from the Plaintiff's truck and forwarded it to Mr. Sallmann for analysis. He reports a few significant things. The data shows that Plaintiff had her cruise control set at 63 mph until 2 seconds before the impact, when she began a hard braking maneuver. This is important because it shows that she was, in fact, traveling at an unlawful rate of speed immediately prior to the collision and therefore by statute forfeits the right-of-way at the intersection. It is also important because it shows that she did not see and react to the truck until she was literally within 200-300 feet of it. We know that the truck was not traveling more than 9-10 mph because its ECM data did not register a hard stop (i.e., the event did not cross the threshold for triggering the recorder), and because Mr. Sallmann computed the delta-v (acceleration) of the vehicles and estimates that the Road Commission truck was traveling approximately 6 mph at impact (Plaintiff was traveling 20-30 mph). At such a low rate of speed, the Road Commission truck would have been in the intersection for at least 10-12 seconds, and would have been visible to Plaintiff for most or all of that entire period. We believe this shows that Plaintiff was distracted by something until it was too late to avoid the collision. Henn's office will prepare Larabee for his hearing date.

Update (04/27/2017): Mr. Larabee's citation was **not** dismissed by the magistrate. Bill Henn will file an appeal and appearance on Jeremy's behalf.

Update (05/8/2017): Appeal was accepted and received notice from the District Court of a pretrial meeting with the prosecutor on May 19, and a formal hearing with the District Court Judge on May 24.

ON NOTICE

Update (05/23/2017): The prosecutor has adjourned the formal hearing that was scheduled for tomorrow, which will provide him with more time to consider the evidence that we have presented. However, the adjournment is not indefinite—the Court set **June 19 at 11:00am** as the new date for the formal hearing.

Update (08/30/2017): Recently received the transcript for the July 7, 2017, formal hearing and were advised that the 87-B District Court has now completed sending the remainder of the file to the Kankaska County Circuit Court. Our Appellant's brief is due August 23, 2017. There are no substantive development with regard to the imminent civil suit.

Update (12/06/2017): The court has scheduled the oral argument of the appeal on behalf of Jeremy Larabee to take place on November 20, 2017, and we are now waiting on the Courts final determination. There has been no substantive development with regard to a civil suit filed by Jory Kruck and we have received some of her relevant medical records. While it was initially felt that Ms. Kruck's physical injuries were limited to minor bruising and stiffness, after review of her medical records, it appears that she sustained a retinal tear. We continue to evaluate the severity of the injury and her prognosis for recovery.

We will keep you apprised of developments as they occur.

MCRCSIP CLAIMS REPORT
E&O14002017008265

Bruens, Ricky
D/A: 04/05/2017

vs. Cass County Road Commission

PLAINTIFF ATTORNEY: Marlo D. Bruch, Bruch Law Offices, PLLC

DEFENSE ATTORNEY: Michael R. Kluck, Michael R. Kluck & Associates

ALLEGATIONS IN COMPLAINT: Plaintiff claims discrimination due to age and disability.

INJURIES/DAMAGES:

FACTS OF ACCIDENT: Mr. Bruens stated that he began his employment with the road commission on May 21, 1985. He alleges on May 18, 2016, that he complained internally about discrimination due to age and disability, to no avail. He also alleges on January 26, 2016, he was disciplined he believes due to his age, disability, and in retaliation for complaints he made.

Update (12/06/2017): A Case Management Order was filed on September 27, 2017 establishing the following important dates:

- Witnesses and exhibits are due by October 26, 2017.
- Plaintiff's expert witnesses, if any, shall be named by November 22, 2017.
- Defendant's expert witnesses, if any, shall be named by December 22, 2017.
- An early Settlement Conference is scheduled for January 17, 2019, at 2:00PM before Magistrate Judge Carmody.
- Discovery shall be completed by March 30, 2018.
- Pre-motion conference requests for dispositive Motions shall be filed by May 31, 2018.
- A Settlement conference is scheduled for February 12, 2019 at 2:00PM before Magistrate Judge Carmody.
- Motions in Limine must be filed by February 26, 2019.
- A Final Pretrial Conference is scheduled for April 15, 2019 at 10:00AM before Judge Neff.
- Trial is scheduled for April 29, 2019 at 9:0AM.

MCRCSIP CLAIMS REPORT
E&O25002015008104

McClane, Joyce
D/A: 02/10/2016

vs Genesee County Road Comm.
LOCATION: 211 W. Oakley St. Flint, MI

PLAINTIFF COUNSEL:

DEFENSE COUNSEL: Mike Kluck, Kluck & Associates

ALLEGATIONS IN COMPLAIN: Road Commission employee is alleging discrimination based on race and retaliation.

FACTS OF ACCIDENT: Plaintiff alleges that she has repeatedly asked the Caucasian Manager/Director of the Road Commission for a corresponding Director title and wage increase, in 02-2016, to no avail. She said that she has complained internally of race discrimination by another Caucasian Director in 07-2016. Plaintiff stated that she believes she has been subject to different terms and conditions of employment in regards to job classification and denied wages due to her race.

UPDATE (02/03/2017): On December 8, 2016 Mike Kluck prepared and sent a Respondent's Answer to Charge of Discrimination. Mike stated that the Road Commission denied the claim for the reason the same is untrue, inaccurate, and misleading. He attached a copy of the investigation report, and also stated that the Plaintiff has since voluntarily left her employment with the Road Commission to take employment elsewhere. Plaintiff has been directed to report directly to the Road Commission's Director of Human Resources and Administrative Services, which the position is currently occupied by a black female. Mr. Kluck also attached the pay rate management sheet for review.

UPDATE (05/17/2017): In March 2017 the plaintiff filed three separate complaints regarding discrimination based on race and retaliation. On March 27, 2017, Managing Director John Daly placed Ms. McClane on paid administrative leave while her complaints are being investigated. On May 17, 2017, Mike Kluck filed Respondent's Answer to the Charge of Discrimination. At this time we are in holding pattern to see how Plaintiff and their attorney answers back. Mike will keep us updated on any new information as it is received.

UPDATE (08/30/2017): No update.

ON NOTICE

Update (12/06/2017): On November 15, 2017, Mike Kulck's office filed their answers to Charge of Discrimination.

MCRCSIP CLAIMS REPORT
E&O34002016008048

Swindell, Christopher
D/A: 8/4/2016

vs. Ionia County Road Commission

PLAINTIFF ATTORNEY:

DEFENSE ATTORNEY: Michael R. Kluck, Michael R. Kluck & Associates

ALLEGATIONS IN COMPLAINT: Plaintiff claims he was not hired full time due to age discrimination

INJURIES/DAMAGES:

FACTS OF ACCIDENT: Mr. Swindell was not offered permanent employment may be in violation of both State and Federal laws prohibiting discrimination on the basis of his age. Mr. Swindell, a highly qualified and experienced employee was passed over for permanent employment and a much younger employees with less experience were offered permanent positions.

UPDATE (08/26/16): No update

UPDATE (05/17/17): No update

Update (08/30/2017): No update.

Update (12/06/2017): On October 23, 2017, the Civil Scheduling Conference Order entered by the Court set the following pertinent dates:

- Plaintiff's witness and exhibit list deadline is December 22, 2017.
- Defendant's witness and exhibit list deadline is January 22, 2018.
- Discovery shall be completed by April 23, 2018.
- A final Settlement Conference is scheduled for April 9, 2018 at 9:00AM.

Case Evaluation and Trial will be schedule to occur sometime after the close of discovery.

MCRCSIP CLAIMS REPORT
E&O03002017008281

Loud, Lucy
D/A: 05/30/2017

vs Allegan County Road Comm.
LOCATION:

PLAINTIFF COUNSEL:

DEFENSE COUNSEL: William Henn, Henn Lesperance PLC

ALLEGATIONS IN COMPLAIN: Affidavit states that she is of a mind to sue the Road Commission under Title VI for something. Identifying what that "something" is presents a challenge because Ms. Loud has been rather vague and confusing to date. Ms. Dean claims that regular road commission activity, such as brush clearing, brining, and bridge construction caused her to have severe distress due to a variety of perceived allergies and "disabilities".

Update (12/06/2017): On May 24, 2017, Ms. Loud filed an Affidavit of Clarification and Intent to Correct the Record of the Minutes from an Allegan County Road Commission Meeting and Intent to File a Title VI Complaint. Ms. Loud subsequently filed a Title VI complaint with the Michigan Department of Transportation. The MDOT Title VI coordinator thereafter sent a Request for Information. A formal response was sent on September 25, 2017.

The MDOT concluded that the Road Commission did not violate Title VI with respect to Ms. Loud and will issue a report which finds no violation, but which state that the Road Commission has agreed to several voluntary actions with respect to Ms. Loud. Among the voluntary actions, MDOT would like the Road Commission to revise its "public involvement" policy to specifically state how requests for additional public comment time at public meetings from individuals with disabilities will be handled. We will continue to apprise you of development as they occur and the Road Commission's compliance with suggested changes by MDOT.

MCRCSIP CLAIMS REPORT
GL34002017008292

Foy, Darcy
D/A: 06/08/2017

vs. Ionia County Road Commission

PLAINTIFF ATTORNEY:

DEFENSE ATTORNEY: Bill Henn, Henn Lesperance PLC

ALLEGATIONS IN COMPLAINT: Ms. Foy alleges that a car passing her tractor caused her tire to fall off of the pavement, causing her to roll her tractor at least twice.

INJURIES/DAMAGES: Claimant alleges that her tractor is a total loss, and that is was the only tractor that their farm had causing a final set-back.

FACTS OF ACCIDENT: Ms. Foy alleges that she was driving her tractor on June 8, 2017, south on Johnson Rd when a car passed her near the intersection of Ellison Rd. She states that a passing vehicle cut the pass short to avoid a collision with another vehicle driving north, forcing her to hug the right side of Johnson Rd where her tire fell off of the pavement causing her to roll her tractor. She stated that the accident happened due to an eight inch drop where she says a shoulder should be in place along with signage indicating said low shoulder and she claiming major negligence and danger to those traveling on the road.

Update (12/06/2017): Bill Henn reviewed the letter from the claimant sent to the road commission, along with social media references to the incident. Bill said that we have received no indication that a suit has been filed in either circuit or district court. A copy of the police report was obtained which refers to the "uneven shoulder", but does not conclude that the incident was the result of that discontinuity, as opposed to the tractor's extreme maneuver to avoid being cut-off. As of November 29, 2017, nothing had been filed in either court.

Michigan County Road Commission Self Insurance Pool
Open Litigated thru 12/06/2017

Claim Number	Claimant Name	Open/Closed	Member	Reserve Type	Reserve Balance	Paid	Collection	Incurred	Description
AL40002013007251	Flanagin, Carrie	OL	Kalkaska County Road Commission	Expense	\$ 58.94	\$ 61,555.83	\$ -	\$ 61,614.77	Climt veh struck RCV head on
	Flanagin, Carrie	OL	Kalkaska County Road Commission	Indemnity/BI	\$ -	\$ -	\$ -	\$ -	Climt veh struck RCV head on
	Flanagin, Carrie	OL	Kalkaska County Road Commission	Litigation	\$ 12,842.23	\$ 266,543.00	\$ 1,000.00	\$ 278,385.23	Climt veh struck RCV head on
					\$ 12,901.17	\$ 328,098.83	\$ 1,000.00	\$ 340,000.00	
E&O25002012007094	Beck, Clinton	OL	Genesee County Road Commission	Indemnity/BI	\$ -	\$ -	\$ -	\$ -	Race discrimination alleged -
	Blue, Charles	OL	Genesee County Road Commission	Indemnity/BI	\$ -	\$ -	\$ -	\$ -	Race discrimination alleged -
	Dunn, Ronnie	OL	Genesee County Road Commission	Expense	\$ 162.76	\$ 9,337.24	\$ -	\$ 9,500.00	Race discrimination alleged -
	Dunn, Ronnie	OL	Genesee County Road Commission	Indemnity/BI	\$ -	\$ -	\$ -	\$ -	Race discrimination alleged -
	Dunn, Ronnie	OL	Genesee County Road Commission	Indemnity/PD	\$ -	\$ -	\$ -	\$ -	Race discrimination alleged -
	Dunn, Ronnie	OL	Genesee County Road Commission	Litigation	\$ 483.45	\$ 82,516.55	\$ -	\$ 83,000.00	Race discrimination alleged -
	Dunn, Ronnie	OL	Genesee County Road Commission	Physical Damage	\$ -	\$ -	\$ -	\$ -	Race discrimination alleged -
	Ross, Kevin	OL	Genesee County Road Commission	Expense	\$ -	\$ 10,617.38	\$ -	\$ 10,617.38	Race discrimination alleged -
	Ross, Kevin	OL	Genesee County Road Commission	Indemnity/BI	\$ 35,000.00	\$ -	\$ -	\$ 35,000.00	Race discrimination alleged -
	Ross, Kevin	OL	Genesee County Road Commission	Indemnity/PD	\$ -	\$ -	\$ -	\$ -	Race discrimination alleged -
	Ross, Kevin	OL	Genesee County Road Commission	Litigation	\$ -	\$ 65,967.00	\$ -	\$ 65,967.00	Race discrimination alleged -
	Ross, Kevin	OL	Genesee County Road Commission	Physical Damage	\$ -	\$ -	\$ -	\$ -	Race discrimination alleged -
					\$ 35,646.21	\$ 168,438.17	\$ -	\$ 204,084.38	
E&O44002015007892	DAgostini and Sons,	OL	Lapeer County Road Commission	Expense	\$ 84.58	\$ 7,915.42	\$ -	\$ 8,000.00	lapeer filed temp restraining o
	DAgostini and Sons,	OL	Lapeer County Road Commission	Litigation	\$ 3,498.00	\$ 127,795.00	\$ -	\$ 131,293.00	lapeer filed temp restraining o
					\$ 3,582.58	\$ 135,710.42	\$ -	\$ 139,293.00	
E&O81002014007512	Ann, Arbor Center for	OL	Washtenaw County Road Commission	Expense	\$ 114.49	\$ 685.51	\$ -	\$ 800.00	Discrimination based on disab
	Ann, Arbor Center for	OL	Washtenaw County Road Commission	Indemnity/BI	\$ -	\$ -	\$ -	\$ -	Discrimination based on disab
	Ann, Arbor Center for	OL	Washtenaw County Road Commission	Litigation	\$ 1,974.27	\$ 48,025.73	\$ -	\$ 50,000.00	Discrimination based on disab
	City of Chelsea,	OL	Washtenaw County Road Commission	Expense	\$ 4,262.71	\$ 11,129.13	\$ -	\$ 15,391.84	Discrimination based on disab
	City of Chelsea,	OL	Washtenaw County Road Commission	Indemnity/PD	\$ -	\$ -	\$ -	\$ -	Discrimination based on disab
	City of Chelsea,	OL	Washtenaw County Road Commission	Litigation	\$ 2,888.00	\$ 57,112.00	\$ -	\$ 60,000.00	Discrimination based on disab
					\$ 9,239.47	\$ 116,952.37	\$ -	\$ 126,191.84	
GL25002016008223	Schrock, Howard	OL	Genesee County Road Commission	Expense	\$ 24.95	\$ 975.05	\$ -	\$ 1,000.00	Lawsuit alleging severe injurie
	Schrock, Howard	OL	Genesee County Road Commission	Litigation	\$ 1,811.00	\$ 28,189.00	\$ -	\$ 30,000.00	Lawsuit alleging severe injurie
					\$ 1,835.95	\$ 29,164.05	\$ -	\$ 31,000.00	
GL32002013007657	Brown, Lowell	OL	Huron County Road Commission	Expense	\$ 900.09	\$ 2,599.91	\$ -	\$ 3,500.00	RCV THREW SNOW ON TPV
	Brown, Lowell	OL	Huron County Road Commission	Indemnity/BI	\$ -	\$ -	\$ -	\$ -	RCV THREW SNOW ON TPV
	Brown, Lowell	OL	Huron County Road Commission	Litigation	\$ 5,954.00	\$ 13,046.00	\$ 1,000.00	\$ 18,000.00	RCV THREW SNOW ON TPV
					\$ 6,854.09	\$ 15,645.91	\$ 1,000.00	\$ 21,500.00	
GL41002014007391	Denney, Matthew	OL	Kent County Road Commission	Expense	\$ 28,194.94	\$ 6,805.06	\$ -	\$ 35,000.00	Motorcyclist lost control after s
	Denney, Matthew	OL	Kent County Road Commission	Indemnity/BI	\$ -	\$ -	\$ -	\$ -	Motorcyclist lost control after s
	Denney, Matthew	OL	Kent County Road Commission	Litigation	\$ 9,944.40	\$ 90,055.60	\$ 1,000.00	\$ 99,000.00	Motorcyclist lost control after s
					\$ 38,139.34	\$ 96,860.66	\$ 1,000.00	\$ 134,000.00	
GL46002010006517	GUST, LEONARD	OL	Lenawee County Road Commission	Expense	\$ 1,295.42	\$ 33,457.17	\$ -	\$ 34,752.59	TRESPASS - FLOODING TO
	GUST, LEONARD	OL	Lenawee County Road Commission	Indemnity/PD	\$ -	\$ -	\$ -	\$ -	TRESPASS - FLOODING TO
	GUST, LEONARD	OL	Lenawee County Road Commission	Litigation	\$ 3,621.41	\$ 311,626.00	\$ 5,000.00	\$ 310,247.41	TRESPASS - FLOODING TO
					\$ 4,916.83	\$ 345,083.17	\$ 5,000.00	\$ 345,000.00	
GL49002011007170	STRENG, KAREN	OL	Mackinac County Road Commission	Expense	\$ 5,488.53	\$ 54,511.47	\$ -	\$ 60,000.00	MORTORCYCLIST LOST CO
	STRENG, KAREN	OL	Mackinac County Road Commission	Indemnity/BI	\$ -	\$ -	\$ -	\$ -	MORTORCYCLIST LOST CO
	STRENG, KAREN	OL	Mackinac County Road Commission	Litigation	\$ 20,237.75	\$ 179,762.25	\$ 1,000.00	\$ 199,000.00	MORTORCYCLIST LOST CO
					\$ 25,726.28	\$ 234,273.72	\$ 1,000.00	\$ 259,000.00	
GL51002015007843	Tomaszekwski, Ranc	OL	Manistee County Road Commission	Expense	\$ 555.14	\$ 22,444.86	\$ -	\$ 23,000.00	Claimant alleges: PLAINTIFF
	Tomaszekwski, Ranc	OL	Manistee County Road Commission	Indemnity/PD	\$ -	\$ -	\$ -	\$ -	Claimant alleges: PLAINTIFF
	Tomaszekwski, Ranc	OL	Manistee County Road Commission	Litigation	\$ 3,376.42	\$ 202,123.58	\$ 1,000.00	\$ 204,500.00	Claimant alleges: PLAINTIFF
					\$ 3,931.56	\$ 224,568.44	\$ 1,000.00	\$ 227,500.00	

MCRCSIP CLAIMS REPORT
AL40002013007251

Carrie Flanagin
D/A: 12/09/13

v Kalkaska County Road Commission
LOCATION: Rapid City Rd. 200 feet south of Amidon Rd.

PLAINTIFF ATTORNEY: Grant W. Parsons, Parsons Law Firm PLC

DEFENSE ATTORNEY: William Henn

ALLEGATIONS IN COMPLAINT: Negligent operation of a motor vehicle.

INJURIES/DAMAGES: Low back injury, bilateral lower extremity injuries requiring surgery, wage loss and disability.

FACTS OF ACCIDENT: This claim arises from a two vehicle accident involving a snow plow owned by the Kalkaska County Road Commission. On the date of loss the RC was performing snow removal operations. The RC driver was driving a 2002 Sterling tandem axle truck northbound on Rapid City Rd. clearing snow from the northbound lane and a portion of the shoulder. Ms. Flanagin was driving her 2008 Kia Optima southbound Rapid City Rd. at the same time. The allegation is that the RC driver crossed the center line into southbound traffic and struck Ms. Flanagin's vehicle head-on. Ms. Flanagin was taken to a local medical facility with "A" type injuries to seek treatment.

UPDATE (01/29/15): Mediation scheduled 03/27/15.

UPDATE (05/20/15): Mediation 05/27/15; No settlement authority going in as counsel/RC does not believe we have any liability in this case. Very aggressive/difficult plaintiff's counsel. Judge will rule on substantive motions on 06/02/15 (after mediation process). End of Discovery 05/31/15; Status Conference 06/02/15; Motions for Summary Disposition to be filed by 06/09/15; No trial date set at this time.

Plaintiff's attorney is smart enough to know his case is very weak re where RC truck came to rest after accident with regard to allegations that RC truck was in plaintiff's lane of travel at time of collision. Counsel for plaintiff's motion for sanctions is really his attempt to win the case without having to deal with the bad facts for plaintiff by trying to get the judge to sanction the road commission for liability.

UPDATE (06/23/15): Mediation was unsuccessful. Plaintiff's demand was \$1.5 million. We did not offer a counter. Defense counsel's opinion remains that this is a very defensible case for the Road Comm. Believes the physical evidence at the crash scene, and most importantly the final resting places of the vehicles, establishes that the crash occurred in the NB lane, not the SB lane (plaintiff crossed the centerline). Case is not without obstacles – Pl's efforts to have Road Commission sanctioned for spoliation of evidence. Defense counsel believes these obstacles will be overcome. Plans to file MSD based on governmental immunity by deadline of 09/01/15. Case will either be dismissed or we will have a claim of appeal with an automatic stay of trial court proceedings

UPDATE (08/27/15): Motion for Summary Disposition to be heard 09/09/15 as well as Pl's Motion for Sanctions re Spoliation. Case remains very active and plaintiff's attorney has become even more deeply entrenched in his position that he cannot produce his experts because they have been hindered from forming their opinions by the refusal to produce Paul Palazzola for deposition. Plaintiff's counsel's response will likely be that he cannot respond to the motion because his experts have been unfairly hindered. At this point, strategy is to force him to explain, with precision, why that is the case. If we win the motion, we will be out of the case. If we lose the motion, we will have an automatic appeal and mandatory stay of trial proceedings.

UPDATE (11/12/15): Plaintiff's counsel continues to be very difficult. A hearing on Plaintiff's Motion to Strike all Defense Experts is set for 12/08/15. Plaintiff's counsel recently filed a renewed Motion to Default the Road Commission for perceived spoliation of evidence. No hearing date set yet. Defense counsel is preparing a supplemental brief supporting our Motion for Summary Disposition, a Response to the Renewed Motion for Sanctions based on Spoliation and a response to the Motion to Strike Defense Expert Witnesses. Once the Court rules on our Summary Disposition Motion, we will be in a position to take an appeal of right should we lose the Motion.

UPDATE (06/29/16): On 12/18/15 Defendant Kalkaska County Road Commission filed its Claim of Appeal with the Court of Appeals.

This matter has not been scheduled for Oral argument with the Court of Appeals, and likely will not be until sometime in 2017.

UPDATE (08/18/2016): On 8/24/2016 Attorney Bill Henn stated that Plaintiff/Appellee has not filed her brief. Once she files, we will have 21 days to file our reply brief.

This matter has not been scheduled for Oral argument with the Court of Appeals, and likely will not be until sometime in 2017.

UPDATE (02/03/2017): Plaintiff/Appellee has not filed her brief. Once she files, we will have 21 days from the date the Brief is filed to file a Reply Brief. This matter has not been scheduled for Oral Argument with the Court of Appeals, and likely will not be until sometime in the upcoming year. We continue to monitor the docket and updates in case law to remain prepared to file a reply brief as it is possible that the deadlines could be tight between Oral Arguments and due dates for the briefs.

Update (06/01/2017): On March 22, 2017, Bill Henn filed a Reply Brief in the Court of Appeals on behalf of the road commission. This case is unusual in the sense that the Plaintiff's brief opposing our appeal was not filed until two business days before the oral argument, so then we had 21 days to file our Reply. The Court of Appeals rejected our argument, and we are considering filing Leave to Appeal with the Michigan Supreme Court.

Update (08/30/2017): On July 5, 2017, Bill Henn filed an Application for Leave to Appeal with the Michigan Supreme Court. The Court typically takes between 6-8 months to decide whether to grant the Application. In the meantime, the stay of Circuit Court proceedings will remain in effect. If the Court decides against taking the appeal, we will return to the Circuit Court and continue the litigation there.

Update (12/06/2017): The filings were completed on September 7, 2017, with regard to our Application for Leave to Appeal with the Michigan Supreme Court. We await the Supreme Court's decision on the Application, and Bill Henn will continue to monitor the online docket for any updates and apprise us of any new developments.

MCRCSIP CLAIMS REPORT
E&O25002012007094

Ronnie Dunn/Kevin Ross
D/A: 02/25/13

v Genesee County Road Commission
LOCATION:

PLAINTIFF ATTORNEY: Shereef Akeel (Ross & Dunn)
DEFENSE ATTORNEY: Michael R. Kluck & Associates

ALLEGATIONS IN COMPLAINT: Race Discrimination in violation of the Elliot-Larson Civil Rights Act; Retaliation in violation of the Violation of the Elliot-Larson Civil Rights Act.

INJURIES/DAMAGES: Loss of earnings, earning capacity, fringe benefits and mental anguish, physical and emotional distress, humiliation and embarrassment.

FACTS OF ACCIDENT: Plaintiffs, employees of the Genesee County Road Commission allege that they were subject to discrimination based on their race. Specifically, the four plaintiffs, who are African American, state that their failure to be promoted to a foreman position to which they applied was due, in whole or in part, to their race. The position was given to Michael Jaeger (Caucasian).

UPDATE (05/20/15): Appeal: Waiting for Oral Argument to be set.

UPDATE (06/23/15): No pertinent developments since 05/23/15 update.

UPDATE (08/27/15): No pertinent developments. Still waiting on oral argument to be scheduled on the consolidated appeals.

UPDATE (2/18/2016): On February 2, 2016 (unpublished) Michigan Court of Appeals reversed our Summary Judgement against Kevin Ross and Ronnie Dunn, and Affirmed on Clint Beck. Kevin Ross and Ronnie Dunn have been remanded back to the Trial Court.

UPDATE (06/29/16): Defense Counsel filed a Notice of Taking Deposition and Subpoena to obtain all medical records of Kevin Ross. The Court has adjourned the July 20, 2016 trial date until after the Case Evaluation has been scheduled after August, 2016.

UPDATE (08/18/2016): A case evaluation is scheduled for September 6, 2016 to evaluate and authorize an amount that is needed for the case and then will notify each attorney of its outcome. The evaluation should include a separate award as to each Plaintiff. Thereafter each party must file a written acceptance or rejection of the panel's evaluation within 28 days after service of the panel's evaluation. The failure to file a written acceptance or rejection within 28 days constitutes rejection. We understand that the Pool Board will not meet again after August 31, 2016 until December 2016, but we will need to know in September whether to accept the case evaluation award. Until then, we will not know the amount of the award.

On August 19, 2016 Wendy Hardt requested an increase of \$50,000.00 in litigated reserves to ensure covering litigation expenses through the trial.

UPDATE (09/30/2016): A mandatory Settlement Conference is scheduled for December 6, 2016 and the trial is scheduled for December 7, 2016.

UPDATE (02/07/2017): The mandatory settlement conference has been adjourned from December 6, 2016 to March 21, 2017. The Notice to Appear provides that counsel and parties with authority to settle must appear. The trial date has been adjourned to March 22, 2017.

UPDATE (05/25/2017): On March 28, 2017, Wendy Hardt and Tom Derderian appeared in Genesee County Circuit Court for the start of the Dunn Trial. Unfortunately, because of the remodeling occurring in Judge Farah's courtroom, we were going to have even less time to get the trial completed this week than the Judge had originally thought. The courtroom he was going to borrow was not going to be available much the rest of the week. As a consequence, the Judge decided to adjourn the trial to a date when his courtroom will be completed. We will be going to trial on June 13th-16th. Those are firm dates that were set with both counsel in the Judge's chambers.

UPDATE (08/18/2017): A case The Jury Trial in June resulted in a no cause of action verdict. A Judgment was entered by the Court on July 10, 2017. Thereafter, we filed a Motion for Attorney Fees, based upon MCR 2.403(O), i.e. the case evaluation rule. The total amount we are seeking under that rule is \$54,037.50. That Motion is scheduled for hearing on August 28, 2017. On July 31, 2017, Plaintiffs filed a Motion for New Trial, requesting that the jury verdict be set aside and a new Trial be granted. The basis for this Motion is that Plaintiffs allege the Court committed reversible error when it refused to give a jury instruction indicating that the adverse employment action was a failure to give Plaintiffs an interview rather than a failure to promote them. We have responded in opposition of this Motion. That Motion is also scheduled to be heard on August 28, 2017.

UPDATE (12/06/2017) Waiting on written decision from the Court on our Motion for Attorney Fees. Plaintiff's attempted to file a claim of appeal with Michigan Court of Appeals after the Court's denial of their Motion for a New Trial in September. We believe the Motion was dismissed due to lack of jurisdiction. Currently we just playing the waiting game.

MCRCSIP CLAIMS REPORT
E&O44002015007892

D'Agostini & Sons
KWA Water Auth.
D/A: 10/22/2015

v Lapeer County Road Commission
LOCATION: Intersection of Hamburg and Sheldon

PLAINTIFF ATTORNEY: Lawrence Benton, Edwards & Benton, PLC
DEFENSE ATTORNEY: Bill Henn, Henn Lesperance

ALLEGATIONS IN COMPLAINT: Breach of Contract

INJURIES/DAMAGES: Failed to return the road to the original condition as required.

FACTS OF ACCIDENT: D'Agostini & Sons is a contractor of the KWA Water Authority installation project. Part of their work traverses Lapeer County and they applied for and received permits from the Road Commission to work in the ROW under specific conditions. They also posted a \$100,000 cash bond to provide the RC with security in case they failed to return the road to the original or better condition as required under the permit.

D'Agostini failed to return the road to the original condition as required, and the RC used the bond to repair that part of the road. The RC then asked for another bond, and D'Agostini refused. They also continued to fail to return the road to the original condition. Lapeer Road Commission issued a stop work order for two contractors working on road projects S-4005 (D'Agostini) and S-4006 (Zito) based on the Winter Maintenance Agreement between KWA and the Road Commission, which prohibits the contractors from performing any work during spring weight restrictions, which went into effect near the end of February.

The Road Commission was willing to cautiously approach the idea of permitting work during the restrictions subject to careful oversight of the condition of the roads. However, recently, the roads have so badly damaged by the contractors hauling materials to and from the work sites that the Road Commission felt it had no choice as a public safety matter. A Restraining order was filed on the county's path. There is no 3rd party liability claim.

UPDATE (06/29/16): On 05/12/16 the Court entered and Oder denying the Road Commission's Motion for Reconsideration pertaining to the previously filed Order appointing a special master. Though the Motion was denied, the Judge clarified at length the function of the special master, which will benefit the Road Commission.

On 05/17/16 Bill Henn met with corporate counsel and the Road Commission to discuss whether an appeal is warranted. Due to the improvement of circumstances in the field, the Road Commission elected not to pursue an appeal. However, the Road Commission has arranged to meet with D'Agostini, KWA, and its counsel to attempt to privately resolve as many of the outstanding issues as possible. This should narrow the issues to be litigated in the case, if not resolve them outright. That meeting is scheduled for 06/28/16.

Although the parties have agreed to a Special Master Contract with John C. Friend, PE, as of this date, the Special Master has not been utilized. The Road Commission prefers to eliminate as many issues as possible before involving Mr. Friend.

The litigation front has been quiet recently, likely due to the Court's reluctance to push the case until the project reaches "substantial completion," expected in July 2016. No scheduling order has been entered by the Court, but the parties have engaged in limited written discovery, including requests to admit, interrogatories and requests to produce.

Update (08/22/2016): The case is currently in a holding pattern and there is nothing new to report at this time.

Update (11/10/2016): The upcoming court dates are February 01, 2017 Discovery Ends, and February 15, 2017 MSDS filed & heard. Parties have one known contentious issue for the "Special Master" (repairing a portion of Clear Lake Road). Final inspection of the project may raise others when KWA/LDS tenders the highways back to the R.C.

Update (02/03/2017): Presently, the parties are preparing to present the one known contentious issue (the Road Commission's repaving of a portion of Clear Lake Road) to the court appointed Special Master. The parties will submit documents and position papers to the Special Master on February 3, 2017. Beyond this one issue, there are no other existing disputed issues at this time, although the Road Commission is in the process of performing a final inspection of the entire project. Other issues may arise in that inspection that will be submitted to the Special Master. Case Evaluation is to be scheduled sometime in May/June 2017.

Update (06/01/2017): On March 20, 2017 we received a letter from Bill Henn that with the discovery deadline being adjourned for 120 days, he did not see any immediate need to schedule further depositions. The Special Master scheduled a meeting on April 21, 2017 with the Larry Salstrom and Bill Henn at 11:00AM at the road commission. The Special Master has already met with counsel for the other parties. The parties have expressed an interest in an informal settlement meeting to discuss potentially resolving all issues related to the S4005 project and the S5005 project. Many issues that originally existed in the S5005 project (and which were likely to head to litigation) have been resolved through good faith negotiations. A global settlement of issues pertaining to those projects would culminate in the dismissal of the lawsuit.

The following are upcoming pertinent dates:

08/01/2017 Discovery Ends

08/14/2017 Summary Disposition Motions filed and heard

Update (08/30/2017): The Court had scheduled this matter for a case evaluation on August 10, 2017. With the extension of deadlines consistent with the March 22, 2017, Stipulation and Order Adjourning All Dates, the court was to reschedule this matter for case evaluation in September-October. We were instructed by the Court that the only way to move the case evaluation date was for the parties to file a stipulated order adjourning the case evaluation to a date to be set by the Court in October. The Court paperwork for that request was filed on August 2, 2017. We are waiting on approval of our request.

Update (12/06/2017): Settlement Discussions are ongoing.

MCRCSIP CLAIMS REPORT
E&O81002014007512

Ann Arbor Center for Independent Living
City of Chelsea
D/A: 8/1/2015

v Washtenaw County Road Commission
LOCATION: Washtenaw County

PLAINTIFF ATTORNEY: J. Mark Finnegan, P.C.

DEFENSE ATTORNEY: Wendy Hardt, Michael R Kluck & Associates

ALLEGATIONS IN COMPLAINT: Numerous issues with accessibility for individuals with disabilities on several Washtenaw County Road Commission constructions projects in 2013 & 2014. Requests injunctive relief and attorney fees and costs.

FACTS OF ACCIDENT: This is a class-action law suit, but does not seek any monetary award. It does request plaintiff's attorney fees and costs. The case resolves around whether the Washtenaw Road Commission is preparing curb ramps, walkways and pedestrian crossings at road construction sites in a way which is compliant with the Americans with Disabilities Act and accessible to persons with disabilities. It has been discovered that most of the access barriers at the construction sites have been placed by the local Townships in Washtenaw County and not the Road Commission.

As of this date, however, to the best of our knowledge, the Plaintiff has not raised any of the same issues with any of the local Townships.

UPDATE (11/12/15): Complaint was filed 08/27/15 with an Amended Complaint being filed on 09/11/15 dropping the individually named Defendants. Presently, named Defendants include: Road Commission, MDOT, Pittsfield Charter Twp and Ypsilanti Charter Twp. Complaint alleges violations of the Americans with Disabilities Act with regard to alleged access barriers in the sidewalks, curb cuts and pedestrian crossings throughout Washtenaw County. The AACIL is requesting declaratory and injunctive relief, requiring Defendants to correct the alleged access barriers.

Plaintiff's counsel has requested a meeting of all counsel to try to come to some sort of "consent decree" with regard to this litigation but no such meeting has yet been set.

UPDATE (02/18/16): Plaintiffs have filed a Motion for Leave to File a Second Amended Complaint. The proposed Second Amended Complaint is substantially different than the First Amended Complaint and would add a new organizational plaintiff: the National Federation of the Blind of Michigan

UPDATE (06/29/16): Defense counsel have requested AACIL to identify and state with specificity the location of each intersection, sidewalk, curb ramp, and walkway within the Washtenaw County road right-of-way that the Plaintiff(s) allege to be in violation of the Rehabilitation Act of 1973.

UPDATE (08/18/2016): August 15, 2016 received the ADA case against the city of Chelsea. As of August 16, 2016 the Court has still not entered any Scheduling Order nor has it rules on the Plaintiff's Motion for Leave to File a Second Amendment Complaint.

UPDATE (10/19/2016): September 19, 2016, a Motion of Summary Judgement on behalf of the Road Commission was filed. After we filed the Motion, Plaintiffs filed a Motion to Strike our Motion for Summary Judgement. We then filed a Motion for Dismissal of the Second Amended Complaint and withdrew the original Motion of Summary Judgment. Plaintiffs also withdrawn their Motion to Strike. MDOT has not filed a Motion to Dismiss the Second Amended Complaint. Plaintiffs now requested concurrence in Motion for Leave to file a Third Amended Complaint. We have refused to grant such concurrence.

UPDATE (11/10/2016): We have filed our Motion Summary of Disposition and are awaiting decisions. Discovery continues.

UPDATE (02/07/2017): Discovery continues. We have taken some of the deponent depositions, and more are scheduled for February 7, 2017. Once those are complete it is likely that upcoming pertinent dates would be scheduled and provided then.

UPDATE (06/01/2017): Judge denied our Motion for Summary Judgement, and allowed Plaintiff's to amend complaint to name the road commission as a defendant.

Received Order Amending Scheduling Order Dates:

Pretrial Disclosures	July 3, 2017
Motions in Limine	July 28, 2017
Final Pretrial Order	August 25, 2017
Final Pretrial Conference	September 5, 2017 at 3:30 p.m.
Trial Date	September 19, 2017 at 8:30 a.m.

UPDATE (08/30/2017): In May 2017, the Court allowed Plaintiffs to file their third Amended Complaint. Thereafter, we filed an Answer to the Complaint and renewed the Road Commission's Motion for Dismissal, based upon the pleadings. Defendant MDOT has likewise filed a Motion for Dismiss Plaintiffs' Third Amended Complaint. Those Motions are scheduled to be heard on September 22, 2017. If the Motion is denied we will begin taking discovery, including scheduling Plaintiff's depositions.

UPDATE (12/06/2017): Received the Opinion and Order from the Court denying Washtenaw County Road Commission's and Michigan Department of Transportation's Motion to Dismiss. Their denial means we will need to proceed to discovery in this case. We will begin scheduling depositions. A Scheduling Conference has been scheduled for December 11, 2017.

MCRCSIP CLAIMS REPORT
GL25002016008223

Schrock, Howard

D/A: 07/23/16

v Genesee County Road Comm.

LOCATION: Ripley Road,Linden, MI

PLAINTIFF COUNSEL: John J. Kalo

DEFENSE COUNSEL: William L. Henn, Henn Lesperance PLC

ALLEGATIONS IN COMPLAIN: Portion of the road had a dangerous drop-off/pothole for over 30 days.

FACTS OF ACCIDENT: Plaintiff was riding his bicycle in a northbound direction, approximately 1,440 feet north of the northerly-most railroad track of the railroad grade crossing. The tire of the Plaintiff's bike tire traveled off/onto the vertical deep drop-off and down/across the pothole which caused the Plaintiff to lose control of his bicycle and catapulted him over the handlebars and down onto the roadway surface. The Plaintiff suffered severe, painful, disabling, disfiguring and life altering injuries.

Update (12/06/2017): The Court denied our motion for summary disposition and granted the City's competing motion. The Court, therefore, ruled that Ripley Road in the location of the Plaintiff's accident is a county road. The Judge gave very little reasoning, except that he believed the McNitt Act required transfer of all township roads, and that therefore this one should have been transferred. The Judge did not address our argument that there was no evidence that this segment of Ripley Road was **ever** a township road, much less a county road. Rather, all documentary evidence (and there is volumes of it), indicates that this portion of Ripley Road has always been claimed and maintained by the Village/City of Linden. Nor did the Judge address our argument, which is supported by binding appellate case law, that a valid resolution is required under McNitt for a transfer to take place. Here, there is no resolution whatsoever. This is a disappointing result, and it is clearly wrong as a matter of fact and of law. Bill Henn filed a Claim of Appeal.

MCRCSIP CLAIMS REPORT
GL32002013007657

Brown, Lowell
D/A: 01/25/14

v Huron County Road Commission
LOCATION: Etzler Road

PLAINTIFF ATTORNEY: Michael Canner, Brining, Natker

DEFENSE ATTORNEY: R. Michael John, Zanetti & John, P.C.

ALLEGATIONS IN COMPLAINT: Mr. Brown was shoveling snow in his driveway when he saw the CRC plow truck speeding up Etzler Road. Mr. Brown saw the truck was approaching at a high rate of speed and in a reckless manner so he dashed toward his parked vehicle. He opened his door but the CRC plow truck threw a dangerous volume of snow onto his vehicle forcing the door to close on Mr. Brown's legs.

INJURIES/DAMAGES: Displaced mid-shaft tibia fracture in lower right leg.

FACTS OF ACCIDENT: Snowplow passed by Brown's driveway as Brown was attempting to get into the cab of his truck; the force of the snow coming off the plow struck against the pick-up door causing it to pinch Brown's leg between door and rocker panel.

UPDATE (06/23/15): Comprehensive litigation report from Mike John attached as well as pertinent Exhibits. Brown, a 78 yr old male, was shoveling snow away from his Ford F-150 pick-up that was sitting in the driveway with the front end facing the road. As Brown attempted to get into the driver's side of his truck, a WB Huron RC snow plow passed by. The snow coming off the plow struck against the pick-up door causing it to pinch Mr. Brown's leg between the door and rocker panel. Defense counsel does not believe a request for settlement authority should be made at this time.

UPDATE (02/18/16): Case continues to be "on notice". No suit filed at this time Statute of Limitations is three years to file suit so claim will be closing 1/25/2017.

UPDATE (05/28/16): Defense counsel looked into case after no action was taken on pending lawsuit after settlement negotiations broke down. It has been discovered through investigation that Mr. Brown died December 18, 2015. The estate may still file a lawsuit; however, counsel does not feel this will happen. Statute of limitations is January 2017

UPDATE (07/12/16): Brown family attorney Mike Canner wanted to reopen settlement negotiations. His plan now is to file a lawsuit. He conceded that he does not have enough info at this time to file the suit as a wrongful death suit, i.e. no evidence that "a" cause of Mr. Brown's death was his motor vehicle accident injuries. Instead he will file a

survivor action under MCL 600.2921. He made clear that once the lawsuit is filed and served he will broach the subject of settlement again.

UPDATE (11/10/2016): No Activity

UPDATE (02/03/2017): January 25, 2017 the Road Commission received a lawsuit from the Estate of Lowell Brown. We have assigned the case to Mike John at Zanetti & John, P.C. He is reviewing all paperwork regarding the claim at this time.

UPDATE (06/01/2017): On March 31, 2017 we received a copy of the death certificate regarding Mr. Lowell Brown on December, 18, 2015. The document establishes that Mr. Brown died in McLaren Bay Regional Hospital, where he was treated for right lung pneumonia during which he suffered cardiac arrhythmia which is listed as immediate cause of death, and the manner listed as "natural". In Mr. Mike John's view the document does not establish that Mr. Brown's motor vehicle accident injuries caused or contributed to his death, but he cannot rule out the possibility of medical testimony that his injuries significantly reduced his activity levels which could result in a wrongful death suit.

Mr. John has sent two sets of interrogatories and a request for production of documents to plaintiff. Once he receives those back, he will be able to order the plaintiff's medical records, pre and post-accident.

UPDATE (8/30/2017): Parties have exchanged written discovery. January 18, 2018 a case evaluation is scheduled and a trial date is set for March 20, 2018.

Update (12/06/2017): Case evaluation is still scheduled for the date of January 18, 2018 with the trial date set for March 20, 2018. This court does not schedule a settlement conference although it is possible the Judge would be receptive to one if requested. Discovery remains open until 28 days prior to trial which would be February 20, 2018.

All motions, including summary disposition motions have to be heard and disposed of on or before March 6, 2018. Mr. John plans on filing a summary disposition motion as to both defendants. He has to give at least 21 day notice of this motion in order to comply with this provision, and that will need to be filed on or before February 13, 2018.

MCRCSIP CLAIMS REPORT
GL41002014007391

Matthew Denney
D/A: 05/18/14

v Kent County Road Commission
LOCATION: Peach Ridge Ave, NW

PLAINTIFF ATTORNEY: Thomas R. Behm, Gruel Mills Nims & Pylman, PLLC
DEFENSE ATTORNEY: William L. Henn, Henn Lesperance

ALLEGATIONS IN COMPLAINT: Failure to properly maintain road surface (potholes)

INJURIES/DAMAGES: Fatal

FACTS OF ACCIDENT: Claimant, age 42 on D/A, was operating motorcycle NB on Peach Ridge Ave., NW, a two lane, paved local road governed by the basic speed law. Road is straight where the accident occurred but was vertical curves following the natural topography of the land. Claimant crested a hill and reportedly drove through a pothole several feet in diameter and 4-1/2" deep. Claimant lost control, separated from his motorcycle and landed on the pavement where he was struck by a following motorcycle, operated by Darrin Smigiel. Daytime accident (8:26 a.m.). Clear weather and dry road conditions. No alcohol/drug involvement. No helmet worn by claimant.

UPDATE (01/29/15): Case evaluation set for September, 2015.

UPDATE (05/20/15): On 04/17/15, Judge Buth granted our partial MSD motion. Significance is that plaintiff no longer has any viable claim for lost wages of the decedent, loss of earning capacity of the decedent or loss of support of the decedent. This would have been a very large component of the damage module. As it stands, plaintiff is relegated to seeking damages for conscious pain and suffering (which will be contested based on the apparent instantaneous nature of the death), funeral, medical and burial expenses. Judge agreed that basically, because the highway exception to governmental immunity only allows recoverable damages to the person who sustained the bodily injury. Bill exploited the difference in the language between the Highway Exception and Wrongful Death Act to argue that the Denney beneficiaries are precluded from recovery because they did not suffer the bodily injury. This ruling eliminates a huge portion of the damages that plaintiff would have claimed in this case - loss of consortium and loss of financial

Plaintiff may file a Motion for Reconsideration. Facilitative Mediation is set for 07/28/15. Plaintiff's expert will testify roadway was defective for more than 30 days and RC should have known of defects; will be part of mediation briefing. No trial date set.

UPDATE (06/23/15): Pl's Motion for Reconsideration was denied by the Court. The ruling dismissing Pl's claims for loss of support, loss of services, etc... stands unaltered. Plaintiff will be filing an Application for Leave to Appeal the decision granting partial summary disposition to the Road Commission (due 06/30/15).

UPDATE (08/27/15): Stipulation to Stay Proceedings Pending the Outcome of Plaintiff's Interlocutory Appeal entered by the Circuit Court on 07/27/15. No set timetable for the Court of Appeals to make a decision. Typically approx. 4 months.

UPDATE (02/18/16): In Appeals Court-Court granted the Plaintiff's Application for Leave to Appeal. Counsel filed an Appellee's brief which Plaintiff answered with an Appellant brief.

UPDATE (06/29/16): Plaintiff filed her Application for Leave to Appeal on 06/30/15, and this office filed our Appearance on 07/15/15.

The Plaintiff/Appellant's Brief on Appeal was filed 12/22/15 and our Appellee's Brief was filed on 03/22/16, followed by Appellant's Reply Brief on 04/11/16. On 04/12/16, The Negligence Law Section State Bar of Michigan filed a Motion to submit an Amicus Brief supporting Plaintiff's claim, which was granted 05/05/16. By court order, the Amicus Brief was required to be filed no later than 06/02/16, but oddly, no amicus brief was filed.

This matter has not been scheduled for Oral argument with the Court of Appeals, and likely will not be for quite a number of months.

UPDATE (07/20/16): Received a letter of supplemental authority from the Plaintiff's counsel. That letter alerted the Court to the recent Streng decision and its conclusion that a plaintiff may recover for all damages flowing from a bodily injury in a highway exception claim. Oddly, however, the Streng decision—if correct (which we believe it is not and have appealed to the Supreme Court)—would require dismissal of the Denney case for failure to comply with the notice requirements of MCL 224.21.

UPDATE (10/28/16): Oral argument of this matter was heard in the Court of Appeals, on 10/4/16. To date, an opinion has not been issued by the Court. Once the opinion is issued, the losing side will have 42 days in which to file an application for leave to appeal with the Michigan Supreme Court. We will continue to monitor this matter and report once an opinion is issued.

UPDATE (1/27/17): Received Plaintiff's Answer Opposing our Application for Leave to Appeal. There were no surprising arguments that arose. Bill Henn will file a reply within 21 days (February 14, 2017).

UPDATE (06/01/2017): On February 14, 2017, Bill Henn filed his reply brief to Plaintiff stating that they had mischaracterized and misrepresented Defendant's legal arguments. Our request for Leave to Appeal was denied, and we are filing a Motion for Reconsideration by June 14, 2017 (within the 21 day requirement). Barring reconsideration the case will return to trial court at which time we will file for Motion for Summary Dismissal under Streng. The Supreme Court typically takes 6-8 months to act on an Application, and Mr. Henn will report any developments as they occur.

UPDATE (08/30/2017): No update.

UPDATE (12/06/2017): A Scheduling Order was issued from the Circuit Court. The following are upcoming pertinent dates:

- 1/8/18 Motions for Summary Disposition on Pleadings Must be Filed
- 02/16/18 Plaintiff's Expert Witness List
- 03/16/18 Defendant's Expert Witness List
- 04/18/18 Trial Witness List
- 05/16/18 Discovery Ends
- Facilitation to occur following close of discovery
- 06/06/18 Motions for SD based on discovery record to be filed
- 07/18 Case Evaluation (date TBD)
- 09/18 Settlement Conference (date TBD)

MCRCSIP CLAIMS REPORT **GL46002010006517**

Leonard Gust
D/A: 06/02/10

v Lenawee County Road Commission
LOCATION: 13654 Sandy Beach Road

PLAINTIFF ATTORNEY: Harvey A. Koselka, Koselka DeVine, PLC

DEFENSE ATTORNEY: Allen J. Philbrick, Conlin, McKenney & Philbrick, P.C.

ALLEGATIONS IN COMPLAINT: Unconstitutional taking of land without just compensation, trespass, willful and wanton negligence.

INJURIES/DAMAGES: Cash value of plaintiff's damage to his real and personal property and loss of use of his property. (No specific dollar amount claimed by plaintiff).

FACTS OF ACCIDENT: Plaintiff owns land along both sides of Sandy Beach Road, a paved, primary road. Plaintiff alleges that a drain exists under Sandy Beach Road that allows surface water to drain from west to east. Plaintiff further alleges that he is experiencing flooding and water damage to his property due to the road commission's failure to maintain the drain.

UPDATE (01/29/15): Comprehensive post-trial report received from Counsel Philbrick. Decision to be made regarding taxing of costs as it relates to appeal and involvement.

UPDATE (05/20/15): Plaintiffs filed Motion for Judgment Notwithstanding Verdict and requested a new trial on the issue of damages and motion to reinstate the claim against Orrin Gregg, former Managing Director of the RC. Counsel's first impression is that they are attempting to recast their argument in defiance of both the COA and the Jury Verdict itself. Our counsel has now filed a Motion for Case Evaluation Sanctions as well which is scheduled for 06/08/15; the same day as plaintiffs' motions for JNOV, etc. Counsel will provide a comprehensive report after these motions on 06/08/15 regarding future handling.

UPDATE (06/23/15): Hearing took place on 06/08/15. Court will issue written opinion on PI's motions for JNOV, New Trial and Relief from Order on 06/25/15. At that time, defense counsel will argue our Motion for Case Evaluation Sanctions totaling \$132,105.00 (\$125,765.00 in attorney fees and \$6,340.16 in taxable costs).

UPDATE (08/27/15): Order granting our Motion for Award of Case Evaluation Sanctions entered 08/20/15; agreed to stipulate to reducing attorney fees by about \$2,000 pertaining to short-lived MDEQ lawsuit (conceded on this and did not incur expense of defense counsel preparing for and attending hearing. PI's

motions were denied. Allen Philbrick still thinks there could be a Claim of Appeal filed; PI's have until 09/10/15 to do so. While we have already recognized, and even stated, that we do not intend to dispossess the Gusts of their home. Defense counsel believes we should look into filing a Judgment Lien and recording same with the County Register of Deeds. At the very least, this would put a cloud over the title to the property in case the Gusts ever wanted to sell it, convey it to their children, etc. May give us some form of protection against any renewed claims should the property flood again due to the Gusts' ongoing failure to repair their drain field.

UPDATE (2/18/16): Plaintiffs filed their Claim of Appeal and also filed a Motion for Expedited Consideration. The Motion to Expedite was denied by the Court of Appeals. Plaintiffs will now file their brief and we will file our response (this will take several months).

UPDATE (07/21/16): Case has been submitted to the Court of Appeals on Briefs. Waiting to get notice of a date for oral argument.

UPDATE (10/18/16): No pertinent updates

UPDATE (11/10/16): No update

UPDATE (02/02/2017): Oral arguments have been scheduled for February 14, 2017.

UPDATE (06/01/2017): On April 28, 2017, Allen Philbrick let us know he filed a Brief in Opposition to the Gusts' Application for Leave to Appeal to the Supreme Court. Much of it repeats the various arguments we have made on three occasions to the Supreme Court, he did find while doing this Brief that the Plaintiffs had really reconfigured some of their arguments, but he stated the gist of the matter remains the same. Most typically the Supreme Court takes about 90-120 days to consider an application. Again, the odds are quite low that the court would grant leave, but he will make sure to stay on top of it and notify us of any new status reports.

UPDATE (08/30/2017): No Update

UPDATE (12/06/2017): The Supreme Court denied the Gusts' Application for Leave to Appeal. File is now closed.

MCRCSIP CLAIMS REPORT
GL49002011007170

Karen Streng
D/A: 07/08/11

v Mackinac County Road Commission
LOCATION: Hwy. 33, 1.1 mile N. of Camp A Road

PLAINTIFF ATTORNEY: Richard Radke, Jr. P.C.

DEFENSE ATTORNEY: William L. Henn, Henn Lesperance

ALLEGATIONS IN COMPLAINT: Failure to properly maintain road surface (crack sealing performed by Road Commission allegedly created a slippery condition).

INJURIES/DAMAGES: Right femoral condyle and tibia plateau fx. Requiring total knee replacement, rt. Rotator cuff tear requiring surgical repair, multiple right rib fx., fx. C6, multiple broken teeth, multiple lacerations, contusions, abrasions.

FACTS OF ACCIDENT: Single motorcycle accident. Plaintiff, age 65 was operating motorcycle on Hwy. 33, a two lane, paved primary road governed by the basic speed law. Plaintiff lost control traveling through a right curve, left the road on the outside of the curve and struck a tree. Right turn warning sign precedes curve for NB motorists with 40 mph. speed advisory panel and chevrons are located through the curve.

UPDATE (5/20/15): Briefing in Court of Appeals has been completed; waiting for assignment of hearing date by the Court of Appeals, which may take another 6 to 10 months.

UPDATE (08/27/15): Briefing in Court of Appeals complete
Assignment of hearing date by the Court of Appeals-may take up to 6 months.

UPDATE (2/18/2016): Oral arguments took place on 12/1/2015 at the Michigan Court of Appeals. Awaiting on a decision.

UPDATE (06/29/16): COA published decision 5/24/2016; Affirmed the denial of our MSD by the trial court. We are filing a leave to Appeal the COA decision to the Michigan Supreme Court. Briefing in Court of Appeals has been completed.

Oral arguments were heard on 12/01/15.

On 05/24/16 the Court of Appeals issued an Opinion in favor of Plaintiff. The Court concluded that the notice provision of the Governmental Tort Liability Act, MCL 691.1404, does not apply to highway claims against County Road Commissions. Rather, the Court held that the much older notice provision of the County Highway Law applies to claims against Road Commissions.

We are currently preparing our application for leave to appeal in the Michigan Supreme Court, due on 07/05/16.

Update (08/25/2016): We received the Plaintiff's answer to our application for Leave to Appeal to the Michigan Supreme Court. There are no surprising arguments. We filed our reply brief by August 19, 2016, after that briefing was concluded and the Court will decide whether to take the case. The entire process takes 4-6 months.

Update (10/14/2016): No update still waiting for Court Decision

UPDATE (02/02/2017): An application has been filed with the Michigan Supreme Court. Plaintiff filed an Answer, which does not raise any new issues of note, and to which Defendant filed a Reply Brief. On 12/21/2016 the Supreme Court denied leave to appeal in this case. Thereafter, the Road Commission filed its Motion for Reconsideration based on the Court of Appeals erroneous interpretation of MCL 224.21 along with the aforementioned and arguments regarding the applicability of the notice of provisions of the GTLA to road commissions. The Motion for Reconsideration is currently pending before the Supreme Court.

CRA has recently agreed to file an amicus brief in support of the Road Commission's position.

UPDATE (06/01/2017): The Supreme Court denied our Motion for Reconsideration, and the case now returns to the Circuit Court for scheduling.

UPDATE (08/30/2017): Following the Supreme Court's denial of our Motion for Reconsideration, this matter was returned to the Mackinac County Circuit Court for continued litigation. The Circuit Court arbitrarily issued a scheduling order allowing the parties little time for discovery, or much else for that matter. Plaintiff's Counsel and I jointly requested a modified scheduling order, which the court granted without a formal hearing. The new litigation deadlines are as follows:

- Amended lay and expert witness lists due August 18, 2017.
- The parties shall participate in facilitative mediation by September 30, 2017.
- Discovery end October 31, 2017.
- Case evaluation will occur on November 6, 2017.
- A pre-trial/settlement is scheduled for January 19, 2018 @ 11AM.
- Trial shall be set in April 2018.

The court requires that counsel confer with their clients regarding a "realistic offer of settlement" for use at the January 19th pre-trial/settlement conference.

UPDATE (12/06/2017): The Court issued a Scheduling Order and the following are upcoming pertinent dates:

- 12/18/17 Case Evaluation
- 12/31/17 Discovery Ends
- 01/05/18 All Motions Filed
- 01/15/18 Acceptance/Rejection of Case Evaluation
- 01/19/18 Exhibit Lists Due
- 01/19/18 Pre-Trial Settlement Conference

MCRCSIP CLAIMS REPORT
GL51002015007843

Randall Tomaszewski
D/A: 12/07/15

v Manistee County Road Commission & MDEQ
LOCATION: Richley Creek at the Gilbert Road crossing

PLAINTIFF ATTORNEY: Edward K. McNeely, Raymond March, Carol March

DEFENSE ATTORNEY: William Henn, Henn Lesperance

ALLEGATIONS IN COMPLAINT: Plaintiff charges flooding to his property, violation of Michigan Environmental Protection Act, discharging a substance into the waters that may be injurious to public health, safety and/or welfare to animals or plants or the value of fish or game; Inverse Condemnation, by flooding Plaintiffs' property, the Road Commission has appropriated Plaintiffs' land without paying just compensation.

INJURIES/DAMAGES: Plaintiff alleges that the removal of the restrictor pipe led to flooding of their property which is downstream from Gilbert Road crossing.

FACTS OF ACCIDENT: Summer of 2013, Manistee road commission replace a 66 foot long by 48 inch diameter culvert on Gilbert Road. In September 2014, Plaintiff Tomaszewski- property owner directly downstream from the Gilbert Road crossings- begin to experience flooding on his property. The Plaintiff filed a complaint seeking to enjoin the Manistee County Road Commission from removing the 48 restrictor pipe currently situated in Richley Creek at the Gilbert Road crossing in Manistee County. On November 24, 2015 the court entered a temporary restraining order to prevent the Road Commission from removing the restrictor from the pipe.

UPDATE (2/18/2016): Defendant/Cross-Plaintiff filed its Motion and Brief for Summary of Disposition. Essentially, the Marches argue that they have not "wrongfully" retained the Road Commission property because all they have done is revoke permission to enter their land. The hearing on the motion is set for February 22, 2016, along with a hearing on cross-defendants' objection to our motion concerning injunctive relief against the Marches.

UPDATE (06/28/2016): Counsel filed motion to Answer with Affirmative Defenses and Jury Demand in response to the MDEQ's enforcement action. Counsel also responded to the MDEQ's motion to consolidate. Counsel recommended that the Pool was not oppose the motion, because combining the cases will promote judicial efficiency. The MDEQ will be an ally in defending the claims brought by the Tomaszewski's against the Road Commission. A new scheduling order will be entered for the MDEQ action against the Road Commission.

A pretrial conference in that case has been set for June 27, but parties are likely to agree to an order in advance.

UPDATE (7/14/2016): Received Response to Road Commission's Second Motion for Summary Disposition. Wherefore, Plaintiffs request that the Court deny the Road Commission's request to summarily dismiss their complaint.

UPDATE (10/28/2016): On 07/11/16, Plaintiffs filed a Complaint against Conservation Resource Alliance, the Grand Traverse Regional Land Conservancy, and Ducks Unlimited alleging Trespass, Nuisance and Abatement, and Willful and Wanton Misconduct. Defendants Motion for Protective Order to bar Plaintiff's from obtaining the Depositions of County Road Commission Board members was heard and denied. Per agreement, Plaintiff's counsel is to submit a proposed order to the Court outlining the Court's decision. As of 10/28/16, the Order has not yet been submitted by Plaintiff's Counsel.

UPDATE (11/10/2016): Co-Defendants have filed their answers. Discovery is ongoing. Mediation is to be completed by February 01, 2017, and Discovery to be concluded by March 15, 2017.

UPDATE (02/03/2017): Co-Defendants, Duck's Unlimited, Conservation Resource Alliance and The Grand Traverse Regional Land Conservancy have all filed their Answers to the Complaint. Discovery is ongoing and depositions of the Tomaszewskis took place on 01/23/2017. Mr. and Mrs. March were scheduled as well on 1/23/2017; however, we were advised late on 1/20/2017 that the Marches would not be appearing as Mr. March had sustained injuries while chopping down a tree and fractured his ankle requiring surgery. Both Mr. and Mrs. Marches' depositions have been rescheduled to 2/02/2017. Depositions for Plaintiffs' experts Matt Keiser and Corey Kadow of Abonmarche are scheduled to 2/15/17. The Mediation in this matter is scheduled with Joseph Quandt on 3/20/17 to be held at the offices of the Michigan Department of Environmental Quality in Lansing, MI. The following are upcoming pertinent dates:

UPDATE (06/01/2017): Court has allowed us to conduct discovery until May 31, 2017. Motions for Summary Disposition must be filed by June 30, 2017.

UPDATE (08/30/2017): Plaintiffs' counsel was insisting on language in the Agreement that the Road Commission will maintain the opening of the culvert at no greater than 16.5 square feet. We viewed that as problematic because should a flood occur on the Plaintiffs' property in the future, which is extremely likely, Plaintiffs would have an avenue to recommence an action against the Road Commission if the opening had somehow increased in size (such as if natural sediment had washed away). In response to our request that the DEQ approve a culvert design that was maintenance free (or at least closer to it), the DEQ has advised that it would approve a steel plate welded to the downstream end of the culvert. The culvert would then have a rock glide

placed approximately 3 feet upstream into the culvert (not grouted). There would also need to be a rock run extending approximately 10 feet downstream from the culvert to prevent scouring issues. The DEQ would also insist on a thorough longitudinal profile. Apparently, the DEQ was not entirely pleased with this option because it would not guarantee natural sediment on the bottom of the culvert. I have been advised that the DEQ is now insisting on a \$10,000 civil fine. A revised addendum to the mediation agreement and the DEQ's drawing of the proposed plan is attached. I informed the AG's office that the DEQ's insistence on a 10k fine is unreasonable.

UPDATE (12/6/2017): Settlement discussions resulted in a mediation agreement. That document has been executed by all parties. We are waiting for the Plaintiffs and Cross-Defendants to execute an easement for maintenance of the culvert in favor of the Road Commission. Once that occurs, the case will be dismissed.