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Our No-Fault Service Provider Spotlight

Herndon Home Health Services
Services Southeastern and Central Michigan
Ph: 248-246-0568 www.herndonhomehealthservices.com

This month we spotlight Herndon Home Health Services, a client-focused private duty home health care services company that provides high-tech home health aide services, registered nursing services, and certified case management services. Servicing persons with a variety of medical conditions from stand by assistance to total direct care, its mission is to ensure each client receives and maintains compassionate, exceptional, and complete home health care services.

At Herndon Home Health, it maintains a 24 hour on call system for client coverage for nursing, as well as home health aide services, so that clients never have to worry about being unattended. All of its staff is overseen by its Clinical Nursing Director and receive regular monthly education seminars to keep up with the rapid changes that occur in the medical field.

Patricia Herndon, founder of Herndon Home Health Services, worked as a high tech home health aid herself. She believes her company stands out due to their 24 hour shift coverage of all clients, regardless of how many hours the client is served daily, as well as its 24 hour on call nursing services.



March 2013

Special points of interest:

- **Now that there is no Michigan Assigned Claims Facility, where must auto accident victims submit their claims for No-Fault benefits?**
- **Can a bus company, such as SMART, be held liable if the operator is negligent?**

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The Michigan No-Fault Newsletter

Oakland County Executive Speaks Out in Favor of Michigan's No Fault Law

Oakland County Executive L. Brooks Patterson suffered significant injuries in a car accident on August 10, 2012 and spent weeks in the hospital. He suffered multiple broken bones and was in a coma for 17 days. He still requires the use of a wheelchair and must go to physical therapy several times per week.

Having experienced, first hand, the tragic after effects of a motor vehicle accident, Patterson is in a unique position to advocate for the No-Fault system (although, his medical bills and benefits were provided by workers compensation). He had worked on the issue before his accident and continues to be a proponent of the state's No-Fault Law.

Gov. Rick Snyder has assailed the No-Fault system as being too expensive and has designs on reigning in the benefits provided for in the system. Patterson, in an open letter posted on Oakland County's website, wrote "Any attempt to change the current law without having independent third party financial information is reckless and would result in damage to Michigan's economy, shift millions of dollars of cost from private insurance to Medicaid and destroy the livelihood of Michigan's catastrophically injured auto accident victims."

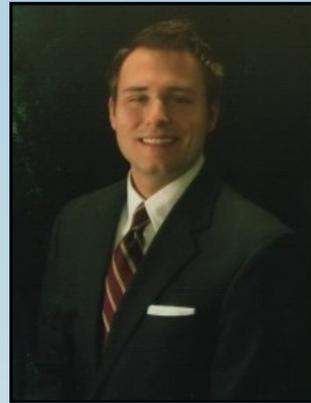
He further extolled the benefits of the system:

- Is paid for by drivers for the protection of drivers
- Provides restored quality of life to accident victims
- Limits costly Tort lawsuits and court docket volume
- Has been overwhelmingly supported by Michigan voters on multiple occasions
- Provides the best possible care for people injured in an auto accident
- Is responsible for at least 10,000 jobs in Oakland County alone that are directly or indirectly tied to caring for people with catastrophic auto injuries

L. Brooks Patterson is an important champion for the No-Fault law. We should endeavor to support his agenda and oppose Gov. Snyder's attacks on the No-Fault system.

Maximum Monthly Wage Loss Benefit—10/1/12 to 9/30/13— \$5,189.00

MCCA Reimbursement Levels—7/1/11 to 6/30/13—\$500,000.00



**Michigan Attorney
Bryan Valentine**

Michigan personal injury attorney Bryan Valentine specializes in personal injury litigation, with an emphasis on automobile negligence and Michigan No-Fault Insurance claims. He is a licensed attorney in the State of Michigan and a member of the State Bar of Michigan and Oakland County Bar Association. Bryan earned his Bachelor's degree from Ohio State University, Masters in Business Administration from the University of Toledo, and his Juris Doctor degree from Ohio State University of Moritz College of Law. He is the newest addition to our team of attorneys at Buckfire & Buckfire, P.C.

Governmental Immunity and SMART Bus Accidents

In *Branyon v. Gibson and SMART*, an unpublished opinion of the Michigan Court of Appeals decided on January 15, 2013 (Docket No. 305994), the Court of Appeals held that there was a question of fact concerning whether SMART and an operator of a SMART bus should be afforded governmental immunity in an action for injuries arising from an auto accident. Thus, the issue should be presented to a jury, rather than being disposed of by the trial court on Defendants' motion.

In this case, the Plaintiff was injured in an accident when a SMART bus went through an intersection. The main issue is whether the light was red and whether the bus had the right of way.

Regarding SMART's liability, the Court explained that "there are several narrow exceptions to governmental immunity as applied to government entities. *Stanton*, 466 Mich at 615. Under MCL 691.1405, "Governmental agencies shall be liable for bodily injury and property damage resulting from the negligent operation by any officer, agent, or employee of the governmental agency, of a motor vehicle of which the governmental agency is owner."

The Court explained that for the bus driver to be held liable she would have to be found to have acted in a grossly negligent manner. Gross negligence is "conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results." *Id.*, quoting MCL 691.1407(7)(a). "Evidence of ordinary negligence does not create a question of fact regarding gross negligence." *Poppen*, 256 Mich at 356.

Bottom Line

- SMART and its drivers are generally entitled to governmental immunity for injuries.
- SMART may be held liable if its operator is negligent.
- The operator of a SMART bus may be held liable if their actions are considered gross negligence.

We are never too busy for your referrals!

We want you to think of us as your law firm. We take great pride in our reputation and we are never too busy for your referrals. The highest compliment to our firm is the great number of referrals we receive every week from case managers and medical providers who trust us to help their clients. Additionally, if you, your colleagues, or any of your clients ever have any legal questions, please do not hesitate to call Buckfire & Buckfire at any time to speak with one of our experienced attorneys.



2nd Annual Detroit Tigers Tickets Giveaway For TBI And SCI Individuals

NOMINATE YOUR TBI & SCI CLIENT TODAY TO RECEIVE FREE TICKETS TO A 2013 DETROIT TIGERS GAME!

If you did not take advantage of this opportunity last year, this is your chance! Buckfire & Buckfire, P.C. will be donating tickets to fifteen Detroit Tigers game during the 2013 season to traumatic brain injury (TBI) and spinal cord injury (SCI) patients. Recipients will receive two excellent seats in the handicapped section of the lower deck in Comerica Park along with a handicapped parking pass.

"Our firm was truly inspired by the stories of all those survivors nominated last year, and for this reason we decided to make our Detroit Tigers Tickets Giveaway an annual donation. Our firm is very proud of this and believe that giving away Tigers Tickets in the handicapped accessible section of the ballpark is a great way to lift the spirits of TBI and SCI survivors so they may enjoy the national pastime," says attorney Lawrence Buckfire.

Nominations for the tickets must be made by medical providers and nurse case managers who are involved in the care and treatment of the nominee. Nomination Forms can be printed at <http://bit.ly/buckfireticketsgiveaway>

Instructions for submission are included on the Nomination Form. Schedule of available games are available on the website (also see right column of newsletter).

A different winner will be chosen for each game at random. Medical providers and case managers may nominate more than one client. Recipients and their medical providers will be contacted if chosen. **Start nominating now!**

The "New" Michigan Assigned Claims Plan for No-Fault Benefits

As of December 17, 2012, Gov. Snyder and the Michigan Legislature passed into law a new Michigan Assigned Claims Plan for No-Fault Benefits. Due to its passing, there is no longer a Michigan Assigned Claims Facility in Lansing. Auto accidents are still able to submit their claims, but it will now be submitted to a new administration, called the Michigan Automobile Insurance Placement Facility (MAIPF). The new address is:

Michigan Assigned Claims Facility
c/o Michigan Automobile Insurance Placement Facility (MAIPF)
P.O. Box 532318
Livonia, MI 48153-3318
Ph: 734.4646-1100

Feel free to call our law office directly if you have any further questions or would like more information about the new MAIPF.

**Buckfire & Buckfire
Detroit Tigers
Tickets Giveaway**

"I just wanted to let you know that I had a great time at the Tigers game. I really appreciate the tickets. Thank you very much," says Keith, a recipient of last years Tigers Tickets Giveaway.

Schedule of Tigers Tickets

Available for Nomination

- April 7, New York Yankees
- April 23, Kansas City Royals
- April 28, Atlanta Braves
- May 15, Houston Astros
- June 6, Tampa Bay Rays
- June 9, Cleveland Indians
- June 23, Boston Red Sox
- June 27, Los Angeles Angels
- July 14, Texas Rangers
- July 18, Philadelphia Phillies
- August 4, Chicago White Sox
- August 18, Kansas City Royals
- September 1, Cleveland Indians
- September 15, Kansas City Royals
- September 18, Seattle Mariners