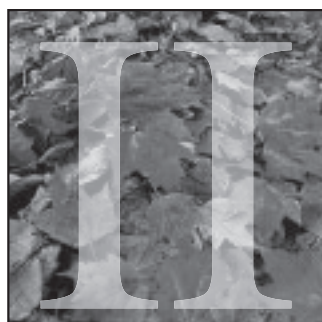


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# MICHIGAN DEFENSE QUARTERLY

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MDTTC

MICHIGAN DEFENSE TRIAL COUNSEL, INC.

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## President's Corner

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By: Timothy A. Diemer  
*Jacobs and Diemer PC*

# From the President



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*"If you want to make God laugh, tell him about your plans."*  
— Woody Allen

When tabbed for the Executive Committee back in 2009, I envisioned my future term as President of the Michigan Defense Trial Counsel being shaped by a push for mandatory continuing legal education in our state. Frankly, with the overall economy in Michigan improving while the legal economy is generously being described as stagnant at best, I sincerely doubt that required seminar attendance is on any member's radar at the moment.

Instead of my premonitions from 2009 of what would be important to the membership of MDTC in 2012, the immediate press of other unforeseen external realities has pushed the priority level of mandatory CLE not just to the back burner but out the kitchen window.

About a week before the MDTC Annual Meeting in May, word leaked that the Legislature was considering passage of yet another round of Tort Reform legislation, collectively referred to as the "Patients First Reform Package," proposing sweeping changes to Medical Malpractice Litigation in Michigan, the bread and butter of so many of our members. This flurry of pre-presidency legislative activity compelled the Executive Committee to feverishly attempt to quickly discern the ramifications of these bills and evaluate the underlying rationales advanced to justify the need for their passage.

Rigorous study of the reform package began, literally, on day one. MDTC Vice President Ray Morganti, Treasurer Mark Gilchrist, and the newest addition to the Executive Committee, Secretary Lee Khachaturian, and I were immediately called into action to distill each of these five bills and their many subparts in an attempt to assess their collective effects on the civil justice system, if adopted. Members of the Executive Committee attended the Hearings of the Senate Insurance Committee tasked with the initial digestion of these bills. MDTC Past President Jim Bodary volunteered to offer testimony to the Committee on behalf of the organization. To advocate the views of the MDTC, members of the Executive Committee have met with the legislators at the core of this latest round of Tort Reform efforts, including the Senator whose office drafted the bills, sponsors of the bills, and members of the Insurance Committee playing a central role in the initial fate of the legislation.

After countless hours of careful study, analysis, research, meetings and debate, we concluded that many of the proposals would be welcome changes to the law, rectifying inequities that struck us as dissonant with the fair administration of civil justice. These fair and reasonable changes have garnered our public approval. On the other hand were proposals we simply could not support, including two new immunity bills cloaked as reforms, that either sought to remedy non-existent problems or unfairly crimped access to the courts.

The end result of these efforts was the MDTC's Executive Committee's drafting of the Position Statement on the "Patients First Reform Package," a document that painstakingly outlines our opinions on each bill, spelling out which proposals we

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The end result of these efforts was the MDTC's Executive Committee's drafting of the Position Statement on the "Patients First Reform Package," a document that painstakingly outlines our opinions on each bill, spelling out which proposals we favor, which proposals we feel are unnecessary and which proposals we do not view as good public policy.

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favor, which proposals we feel are unnecessary and which proposals we do not view as good public policy. We have provided this Position Statement to the members of the Senate Insurance Committee, the House Judiciary Committee, as well as other legislators who have played a role in drafting or sponsoring these bills.

A PDF of the Position Statement we crafted can be found at [http://www.mdtc.org/mdtc\\_member\\_update\\_june\\_2012](http://www.mdtc.org/mdtc_member_update_june_2012). I encourage you to read the Position Statement as well as the draft bills, themselves. If there is anything we missed or other angles to consider, we welcome all commentary, input or criticism.

These first few weeks on the job have been eye-opening, to put it mildly, but

also rewarding. I am encouraged by the responsiveness of our elected officials who have opened their doors at the State Capitol to the MDTC and have been genuinely interested in our analyses. Our comments (sometimes critical) on the bills have not been met with obstinance or arrogance. To the exact contrary: We have been encouraged to provide input and our views have been actively solicited.

Our present efforts have not only been bolstered by the tireless work of the Executive Committee and our Executive Director, Madelyne Lawry. In addition to MDTC Past President Bodary's testimony before the Insurance Committee, this brave new world of political engagement for the MDTC has been years in the making, most recently realized during the tenure of my predecessor, Phil Korovesis,

who successfully mobilized the Board of Directors and Executive Committee to engage in the political process on issues of importance to membership. Little did anyone know just how quickly a pressing legislative assignment would pop.

And even now, after all of the meetings, phone calls, letters, e-mails, facsimiles, legal research, study, drafts, re-workings and revisions of the Position Statement, we are still in no position to consider whether we should actively seek to usher in mandatory continuing legal education: Up next, developing an official position on the Report of the Michigan Judicial Selection Taskforce, which has considered and issued a number of recommendations on our state's method of selecting our judges. Stay tuned.