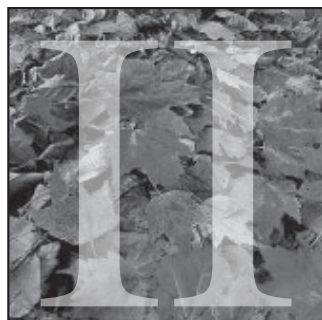

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IN THIS ISSUE:

ARTICLES:

- What the Affordable Care Act Means to Employers
- The Necessity of the Attorney Judgment Rule
- The Near-Binding Effect Federal Courts Give to Unpublished Opinions
- Premises Liability since *Hoffner v Lanctoe*
- Brief Writing in the Court of Appeals
- Legal Malpractice Update
- Supreme Court Update
- Amicus Committee Report
- Court Rules Update
- DRI Report

REPORTS:

- Legislative Report
- Appellate Practice Report
- Welcome New Members
- Schedule of Events
- Member News
- Member to Member Services

MDTC

MICHIGAN DEFENSE TRIAL COUNSEL, INC.

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From the President



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The Road Ahead (with apologies to both Bill Gates and Steve Johnston)

One of my favorite President's Corner Columns was written by Steve Johnston more than 2 years ago where he posed and analyzed the straightforward question of whether you would recommend law school to a recent college graduate. While this question was posed rhetorically, once tapped for the Executive Committee, I always intended to revisit the issue and offer a follow up column. Before addressing this question, however, as the year 2012 comes to a close, this President's Column takes a look back at the past year for Michigan Defense Trial Counsel before looking ahead to the future of the role MDTC can play in shaping the future of the law, particularly the legal environment that young lawyers and law students can expect to encounter.

2012 was a tremendously rewarding year for MDTC, filled with many accomplishments we should be proud of. First, as readers are aware, the dread and doom many of us felt regarding the dangerous tort reform proposals that were introduced in May failed to become law. Only two of the five Medical Malpractice bills of the "Patients First Reform Package" were ultimately passed by the Legislature and the two new laws were largely procedural reforms that MDTC favored. The measures that we felt were unwarranted Trojan Horses that would drastically cut the already drastically cut number of medical malpractice filings in this State were never presented to the governor for his signature. Amid a pouring of outcry from lawyers of all stripes and the general public, the two most extreme bills did not even get voted out of committee, an omen that most of us hope foretells their future viability.

Organizational Cash Flow Is On the Uptick

MDTC also experienced welcome reversals of two negative trends that had been haunting virtually all professional associations: shrinking balance sheets and membership ranks. Too often in recent years, the MDTC Board of Directors and Officers had no choice but to draw on the organization's reserves account to meet operational needs. This was very disturbing momentum, but I am extremely happy to report that this trend has not just slowed but, in fact, reversed course to the point where we have now agreed to replenish the organization's reserves account by "paying back" half of the profit earned during fiscal year 2012.

Past Presidents Lori Ittner and Phil Korovesis placed an emphasis on increasing revenue by reaching out to vendors to sponsor our events to boost revenues, and streamlining expenses, including transitioning this publication from paper to pdf, a step that we are now seeing other law journals taking, as well. The increased revenue and reduced costs have put MDTC in a position to replenish our reserves following two years of positive cash flow.

We owe a great deal of gratitude to our previous leaders who had the foresight to create a "rainy day fund" for the organization when the financial strength of the group was at its zenith. We owe it to the future leaders of MDTC to provide a reserves account for them to use, if necessary, down the road. To this end, at our most recent board meeting, we resolved to evaluate our finances on a quarterly basis and have announced an institutional goal to deposit any profits back into the MDTC reserves account.

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So Is Membership

While in this economy simply breaking even by retaining existing members is a notable accomplishment, MDTC actually increased membership this past year. Even looking past the gratis membership boost by our offering a one year free membership to Michigan-based DRI members who are not members of MDTC, throughout the year we added 33 brand new members and also chipped away at non-renewals resulting in a net gain.

Membership Chair Rik Joppich and co-chair Barbara Buchanan have put in a tremendous amount of work to boost membership, reintroducing a telephone drive to reach out to non-renewals before each board meeting. As the statistics show, these efforts have been successful and we commend Rik and Barbara for their successes.

Where We, and the Legal Community as a Whole, Are Falling Short

Adding young lawyers to our organization is one area where, in all honesty, we are not succeeding. Our membership ranks of lawyers with less than five years of experience is stagnant, bucking the overall membership trend of growth. We currently have 29 such members (barely 4% of total membership), despite a long-standing institutional goal of increasing the participation of new lawyers. As an organization, we have attempted to cater to the younger generation by offering law student memberships and reduced dues for recent bar exam passers, by offering educational programs and social events geared to younger lawyers, and by adapting to technological changes to stay current, reflected by the ongoing redesign

of our website and expansion into new forms of social media.

Some have suggested that the modern burdens faced by recent law graduates is the root cause and that the additional obligations that come with joining a professional bar association hinder our efforts to motivate new lawyers to join MDTC. Whether or not this causal attribution is accurate, the burdens facing new layers are monumental by any measure and this theory cannot be ignored.

Frankly, the employment statistics for the graduation class of 2011 are an outrage, if not an outright shame. According to The Association for Legal Career Professionals, a mere 65.4% of 2011 law school graduates are putting their legal degrees to use, brutally expensive degrees they spent three years and hundreds of hours of grueling study to obtain.¹ The American Bar Association puts this number even lower at an alarming 55%.² Despite making all of the right choices, working hard and pursuing a career that the law schools assured them would pay off, obtaining a legal job after graduating from law school is barely more than a 50/50 proposition.

The rest are either unemployed or not actually working as lawyers, doing things like waiting tables to keep up with their bills, hardly possible now that the average law graduate carries student loan debt over \$100,000.³ These numbers ought to terrify anyone contemplating attending law school.

In 2009, there were twice as many people who passed the bar as there were job openings for lawyers, further support for the ABA's finding of a 55% job placement rate.⁴ 2009 was supposed to be the bottom of the dragging legal economy

as the country's recession officially came to an end, but the 2011 job placement statistics are the worst ever measured by the NALP, despite the economic rebound of the country as a whole.⁵ Not surprisingly, given the ultra-competitive market for legal jobs, starting salaries are dropping, down another 17% over the past year.⁶

With these facts in mind, what is the answer to the question posed by Past President Steve Johnston:

If a recent college graduate asked you if they should go to law school, how would you answer that question? What would you tell them about their prospects of finding a job, let alone paying off the debts incurred during the course of their undergraduate and law school education?⁷

Personally, I love being a lawyer and could not feel more rewarded professionally. I would not change a thing about my career, let alone second guess my decision to become a lawyer in the first place. But I am not sure how I would answer this question for the anonymous college graduate, knowing that it might cost her \$100,000 to have barely an even chance at actually landing a job she would have worked extremely hard to qualify for.

As more and more news outlets report on these troubling statistics, fewer and fewer students are deciding to pursue legal careers. The most recent LSAT administered this past October saw a drop of another 16.4 % from the year before, reaching the lowest number of test takers since 1999.⁸ Applications for law schools are down almost 25% from 2012 and, this next fall, law schools are projected to have barely more than half

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the number of law students as they had less than in 2004, a monumental down slide in less than 10 years.⁹

The causes of the decline are unclear, but are likely a reflection of two things. Conventional wisdom had been that, in previous economic downturns, the number of law school applicants rose, as students who expected difficulty finding a job could tread water and make themselves more marketable by studying for an advanced degree.¹⁰ The trend held true in 2008 and 2009, when the number of LSATs taken jumped by about 6% and 13%, respectively. Now that the recession is over, perhaps fewer are seeking the temporary holding pattern of pursuing a graduate degree.

More significant, in my opinion, has been the avalanche of bad publicity law schools are receiving for promoting lucrative job prospects for its graduates despite overwhelming evidence to the contrary. Non-trade publications, such as the *New York Times* and *Wall Street Journal*, have extensively covered the legal market and are reporting for the benefit of the general public what many of us in the profession have known for a long time now: that the job market for lawyers is lousy.¹¹ The Association for Legal Career Professionals called the current legal job market “brutal,” hardly hyperbole given the objective facts.¹²

The methodology used by some schools to artificially inflate job placement statistics would not survive a *Daubert* challenge and these abuses are finally being called to task.¹³ While the fraud lawsuits challenging these employment statistics have largely been duds in the court room,¹⁴ they have certainly caused a wave of negative attention to the

post-graduate job prospects for lawyers, and I believe we are seeing the aftershocks with fewer and fewer students seeking to pursue the profession we (at least most of us) love. To their credit, law schools do appear to be recognizing the necessity of scaling back class sizes in addition to the organic drop-off caused by the substantial decrease in applicants.¹⁵

But this needed scaling back of the number of new lawyers churned out every year is of little help to those who have already decided to take the plunge. What can we do to help them?

Most important, in my opinion, is our continued fight to preserve the integrity of the civil justice system against attacks to weaken it. The MDTC sprung to action to offer our insights in opposition to legislative attempts that ignored the fallibility of human nature by seeking to immunize professionals when they make mistakes. Going forward, the MDTC leadership will of course continue to welcome needed law reforms but will also call out destructive proposals that would undermine the civil justice system or unnecessary reforms taking aim at unidentifiable problems that do not exist.

We must also continue to reach out to young lawyers, hoping to convince them of the benefits of membership. To that end, we are redesigning the website which will enhance the existing job bank to hopefully connect more law graduates with member firms and we are also seeking to improve the job prospects of law students by our recent creation of a job bank just for them.

Instead of using their struggles as an excuse to look past our shortcomings in attracting new lawyers to our group, however, I believe we should see this as

an opportunity to promote the MDTC as a premiere source for networking and professional development. Our membership and leadership ranks (including yours truly) are filled with attorneys who landed a new client, a new job or enhanced standing within an existing firm from the enhanced exposure of participation with MDTC. We need to do more to promote these successes.

My sincere hope is that we continue to work to make answering Past President’s Johnston question in the affirmative with more confidence.

Endnotes

1. The full text of this report from the NALP can be found at: <http://www.nalp.org/2011selectedfindingsrelease>.
2. The ABA Report can be found at: http://www.abajournal.com/news/article/only_55_percent_of_2011_law_grads_had_fulltime_long-term_legal_jobs_analys/.
3. <http://blogs.wsj.com/law/2012/03/23/lawstudentshowmuchdebttheywant/>.
4. <http://economix.blogs.nytimes.com/2011/06/27/thelawyersurplusstatebystate/>.
5. <http://www.nalp.org/2011selectedfindingsrelease>.
6. <http://economix.blogs.nytimes.com/2012/07/16/thetoppingoftoptierlawyerjobs/>.
7. See *Michigan Defense Quarterly*, Volume 26, No. 4, April 2010.
8. <http://economix.blogs.nytimes.com/2012/11/21/lawschooladmissiontestingplunges/?ref=lawschools&gwh=194346D72B52DA3FA07428FDD63715C0>.
9. http://www.abajournal.com/news/article/fiscal-calamity-ahead-for-some-law-schools-applicants-for-2013-drop-22/?utm_source=maestro&utm_medium=email&utm_campaign=weekly_email.
10. See *October LSATs Plunge*, *Wall Street Journal Law Blog*, http://blogs.wsj.com/law/2012/11/23/octoberlsatsplunge/?mod=WSJ_article_outbrain&obref=obinsite.
11. In addition to the *Wall Street Journal Law Blog*, the *New York Times* has addressed the issue in editorials: <http://www.nytimes.com/2012/07/15/opinion/Sunday/anexistentialcrisisforlawschools.html>. Popular blogs such as “Above the Law” are also drawing attention to the issue.

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12. <http://www.nalp.org/2011selectedfindingsrelease>.
13. A lengthy New York Times article examining the bleak job prospects for recent law graduates lambasted the job statistic reporting protocol, noting that many law schools offered their unemployed alumni temporary jobs that would make them technically employed at the magical nine month post-graduation cut off period. See <http://www.nytimes.com/2011/01/09/business/09law.html?pagewanted=all> ("A number of law schools hire their own graduates, some in hourly temp jobs that, as it turns out, coincide with the magical date. Last year, for instance, Georgetown Law sent an email to alums who were 'still seeking employment.' It announced three newly created jobs in admissions, paying \$20 an hour. The jobs just happened to start on Feb. 1 and lasted six weeks.").
14. The dismissal of one of the more high profile cases, *Gomez-Jiminez v New York Law School*, 2012 NY Slip Op 08819, was recently affirmed by the appellate court. At best, the appellate court charitably described the school's marketing materials as "unquestionably incomplete," but refused to go as far as holding that they were false or misleading. The Opinion can be read here: http://www.nycourts.gov/reporter/3dseries/2012/2012_08819.htm.
15. <http://online.wsj.com/article/SB10001424052702303444204577458411514818378.html>.

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