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In this Issue

Section News

From the Chair 2
Kathleen A. Lopilato

Editor's Note 2
Hal O. Carroll

Save the Date! Annual Meeting and Program 3

Annual Meeting Election of Council Members 15

Announcement: Searchable Directory of Section Members 18

Insurance & Indemnity Law Section Calendar of Events 26

2014-2015 Officers and Council 27

Columns

New Column

Property Law Note: Statutory Appraisal Under a Fire Insurance Policy Issued in Michigan 16
Jason Liss

Business Court Report 17
Kassem Dakhlallah

Selected Insurance Decisions 19
Deborah A. Hebert

ERISA Decisions of Interest 24
K. Scott Hamilton and Kimberley J. Ruppel

No Fault Corner: The "Innocent Third Party" Rule Remains Alive, as Applied to Michigan Pip Claims . . . But for How Long? 21
Ronald M. Sangster, Jr.

Feature Articles

Disaster Averted: The Affordable Care Act Survives Another Major Legal Challenge 4
Lisa DeMoss

Closing The Door On Michigan Consumer Protection Act Claims In Michigan No-Fault Cases 10
Frederick M. Baker, Jr

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Opinions expressed herein are those of the authors or the editor and do not necessarily reflect the opinions of the section council or the membership.

other activities for the quality of care for enrollees, NAIC *Glossary of Health Care Terms.*

23 In 2011, the first year in which Medical Loss Ratios were applied to premiums, insurers paid over $900million to small group employers and individuals representing rebated premiums exceeding the 80% threshold for claims and quality improvements factored into base rates for individual or small group products under the ACA. Rebates paid by insurers for these same products in 2013 were reduced to $325million, Michael J. McCue, Mark A. Hall, *The Federal Medical Loss Ratio: Implications for Consumers in Year Three,* The Commonwealth Fund, March, 2015

24 Health Research Institute, PwC, *Medical Cost Trend : Behind the Numbers 2016,* June 2015

25 *http://www.gpo.gov/fdsys/pkg/FR-2015-01-27/pdf/2015-03751.pdf*

26 *Updated Budget Projections* : 2015 to 2025, Congressional Budget Office, March , 2015

27 David Blumenthal, M.D., M.P.P, President of the Commonwealth Fund, *The Affordable Care Act at Five Years,* Testimony presented to the Senate Finance Committee of the United States Senate, March 19, 2015.

28 *NFIB, supra;* 42 U.S.C. §18091

29 42 U.S.C. § 18091(2)(C), (D), (F), and (J)

30 *Table 3, Enrollment in, and Budgetary Effects of, Health Insurance Exchanges,* Insurance Coverage Provisions of the Affordable Care Act-CBO's March 2015 Baseline, http:/www.cbo.gov/sites/default/files/cbofiles/attachments/43900-2015-03-ACAtables.pdf, last accessed 4.14.15

31 *Table 4 Comparison of CBA and JCT's Current and Previous Estimates of the Effects of the Insurance Coverage Provisions of the Affordable Care Act, supra.*

32 *http://kff.org/uninsured/fact-sheet/key-facts-about-the-uninsured-population/*

Closing The Door On Michigan Consumer Protection Act Claims In Michigan No-Fault Cases

By Frederick M. Baker, Jr.*

Can a claimant who is receiving No-Fault benefits use the Michigan Consumer Protection Act and the Unfair Trade Practices Act to sue for alleged underpayment of the No-Fault benefits?

That is the question raised in *Wilson v Citizens Insurance Company of America and Auto-Owners Insurance Company,*[1] which arose from a December 4, 1977, automobile accident in which the Plaintiff, Gloria Wilson ("Gloria"), then aged 23, was catastrophically injured while driving an uninsured vehicle. Gloria was in a coma for many months after the accident; Gloria's mother became Gloria's guardian and applied to the Michigan Assigned Claims Facility ("the Facility") for No-Fault PIP benefits to cover the cost of Gloria's care, treatment, and rehabilitation. The Facility assigned Gloria's claim to Auto-Owners Insurance Company ("Auto-Owners"), which serviced the claim for over 20 years before withdrawing from the Facility's assigned claims program. Gloria's claim was reassigned to Citizens Insurance Company of America ("Citizens") in August 1998.

Almost 15 years later, in June 2013, Gloria brought suit in North Carolina against both Citizens and Auto-Owners, claiming that each had underpaid the No-Fault benefits to which she was entitled. Both defendants urged that, to the extent that Gloria was eligible for PIP benefits, the No-Fault Act's one-year statute of limitations and its damage limitation, the "one-year-back" rule, applied. MCL 500.3145(1).

Plaintiff's Theory

Plaintiff's complaint alleged an additional theory of recovery to circumvent these No-Fault defenses, recharacterizing her claim for underpayment of PIP benefits as one arising under the Michigan Consumer Protection Act ("MCPA"),[2] for alleged violations of the Unfair Trade Practices Act ("UTPA"),[3] Chapter 20 of the Insurance Code ("Chapter 20").

Defendant's Response – No Consumer Transaction

In their motions for summary judgment, Auto-Owners and Citizens argued that the MCPA did not apply. Because no insurance policy had been purchased that applied to the accident vehicle, which was why Gloria was receiving benefits from the Facility, her MCPA claim did not arise from the "consumer

* *The author thanks John Yeager, Esq., for offering constructive comments and suggestions, but the opinions expressed are solely his own.*

transaction" that is a predicate to any MCPA claim. Rather, they argued, all No-Fault PIP benefits that Gloria claimed and received were payable under a non-profit, statutory, social welfare program that, in claims such as Gloria's, applies only when no insurance policy affords coverage. Therefore, Auto-Owners contended,[4] it was entitled to summary judgment on the alternative ground that, in the absence of any consumer transaction, Gloria could not evade application of the No-Fault Act's one year statute of limitations and one-year-back rule to her claim against Auto-Owners by reframing her claim as one arising under the MCPA and Chapter 20.

Statutory Amendment – MCPA Does Not Apply to Insurance

Auto-Owners argued that Plaintiff's MCPA claim failed not only because her claim involved no consumer transaction, but also because the MCPA was amended in 2001 to make it expressly inapplicable to insurance. Even if a valid MCPA claim theoretically could have been alleged as to any pre-1998 Auto-Owners conduct, Auto-Owners argued, Plaintiff's claim was untimely as to Auto-Owners under the narrow exception to the 2001 MCPA amendment.

A little historical background is necessary to an understanding of this argument. Under the pre-2001-amendment version of the MCPA, a private action would lie under MCPA § 11 against an insurer for violations of Chapter 20.[5] But even such pre-2001-amendment actions were subject to *the later* of MCPA § 11's six-year and one-year-from-the-last-date-of-payment limitation periods.[6] Under either limitation, Auto-Owners argued, Gloria's action was untimely as against Auto-Owners, because it had last serviced and paid Gloria's claim in August 1998, almost 15 years before Gloria brought suit, in June 2013.

> Plaintiff's complaint alleged an additional theory of recovery to circumvent these No-Fault defenses, recharacterizing her claim for underpayment of PIP benefits as one arising under the Michigan Consumer Protection Act ("MCPA"), for alleged violations of the Unfair Trade Practices Act

To a limited extent, MCPA claims based on alleged violations of Chapter 20 have been permitted under what remained,[7] after the 2001 MCPA amendment, of the holding in *Smith v Globe Life Ins Co*,[8] allowing claims under the MCPA for violations of Chapter 20. The legislature promptly overruled *Smith* by amending the MCPA[9] to provide that "[t]his act does not apply to or create a cause of action for an unfair, unconscionable, or deceptive method, act, or practice that is made unlawful by chapter 20 of the insurance code of 1956." Though that amendment was effective on March 28, 2001,[10] the Supreme Court held that it was not retroactive.[11] In theory, this combination of legislative action and judicial interpretation left open a small "window," under the holding in *Smith*, *supra*, for claims arising *before* March 28, 2001.[12]

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Thus, by recasting her PIP claim as one arising under the MCPA, for alleged pre-March 28, 2001, violations of Chapter 20, Gloria sought to exploit MCPA § 11, which allows an action within one year after the last payment. But in this case, the last payment was *by Citizens*, in 2013.

Auto-Owners contended that Gloria's claim *against Auto-Owners* could not simply leapfrog over the more than 12 years between March 28, 2001, the effective date of the MCPA amendment prohibiting claims based on any "unfair, unconscionable, or deceptive method, act, or practice that is made unlawful by chapter 20 of the insurance code of 1956," and the filing of the complaint, on June 12, 2013. That would defy the MCPA's six-year statute of limitations, not to mention the "within one year of last payment" problem posed by the almost 15 years between *Auto-Owner's* last payment to Gloria, in August 1998, and the filing of the complaint.

Auto-Owners advanced alternative MCPA arguments.

Contractual Transactions versus Social Welfare Programs

First, the insurer argued that because Gloria's claim was one for statutory benefits payable under the assigned claims plan, based on no policy of insurance, and involving no predicate consumer purchase transaction, Gloria could not invoke the MCPA. There is a difference, Auto-Owners argued, between contractual transactions in trade or commerce, which are the subject of, and are subject to, the MCPA, and, social welfare programs, or what the Michigan Supreme Court has called, "vicarious philanthropy," which are not. In short, for the MCPA to apply, a transaction in trade or commerce is required: "[T]he MCPA applies only to purchases by consumers."[13] Gloria was neither a consumer nor a purchaser; indeed, *she was a Facility claimant precisely because neither she nor anyone else had purchased insurance applicable to the accident vehicle.*[14] Gloria thus was not a party to the predicate consumer transaction that must occur before the MCPA applies.

The MCPA applies to "trade or commerce," which the MCPA defines as "the conduct of a business providing goods, property, or service primarily for personal, family or household purposes" that "includes the advertising, solicitation, *offering for sale or rent, sale, lease, or distribution of a service or property*, tangible, real, personal, or mixed...."[15] The polar opposite of offering insurance for sale is a social welfare program that provides benefits only when no insurance is available. Auto-Owners argued that the MCPA contemplates, and is triggered by, a consumer purchase, which, by hypothesis, did not occur here, *because, by law, a claim for PIP benefits against the Facility like Gloria's is expressly conditioned upon the absence of any insurance policy for which a premium was paid.* A sale to a consumer is the touchstone of the Consumer protection Act's application.[16]

MCPA Cannot Apply Without a Sales Transaction

That a "sales transaction" is required before the MCPA can apply seemingly was suggested even by the plaintiff's argument in *Schwein, supra,* that if "*the sales transaction*" referred to in the MCPA has occurred, the MCPA also applies to "*post-sale transactions.*"[17] The *Schwein* Court agreed, resting its decision in plaintiff's favor on a sale to which the defendant insurer's "post-sale" conduct could be linked. Auto-Owners argued that the MCPA did not apply to Gloria's claim because there was no insurance policy -- and thus no consumer transaction involving a sale of insurance to an insured – to trigger the MCPA's application.

Even before the 2001 amendment, the MCPA did not purport to regulate social welfare programs that dispense statutory benefits available only in the absence of any sale of insurance to a consumer. It regulated the sale of an "insurance policy" by an "insurer" subject to the requirements of Chapter 20. Therefore, Auto-Owners contended, Plaintiff's reliance on the MCPA was misplaced, because the MCPA's requirement of conduct involving "trade or commerce" precluded its application to a claim for statutory assigned claim benefits that could be asserted only in the absence of a consumer transaction involving the sale of an insurance policy. Such a claim was, in Justice Brooke's phrase, nothing less than a request for "vicarious philanthropy" that is not insurance precisely because "no contractual relations whatever existed between the parties."[18] In short, Michigan courts recognize not only the difference between insurance and "vicarious philanthropy," but also the difference between the right to recover contract damages and the right to receive benefits under statutory "social welfare" and "income maintenance" programs like the assigned claims plan. As the court put it in *Franks v White Pine Copper Range Co*, 422 Mich. 636, 654; 375 N.W.2d 715 (1985):

> All *the social welfare programs* -- workers' compensation, unemployment compensation, social security old age, disability, and survivor's benefits, *no-fault automobile benefits*, aid to families with dependent children, and general assistance -- are directed to the same objective, income maintenance. All these programs are funded by impositions on employers and others of mandatory payments (to the government, insurers or, in the case of the self-insured, to the beneficiary), with statutorily prescribed benefits. (Emphasis added).

The MCPA does not apply to a claim for benefits under the assigned claims plan that is based on the absence of any insurance coverage for the accident vehicle, because (1) *no consumer transaction* is involved in such a claim to which the Michigan *Consumer* Protection Act can apply, nor (2) is an "insurer's" sale of an "*insurance policy*" involved to which Chapter 20's Unfair *Trade* Practices Act can apply. In the absence of a pol-

icy, a premium payment, an insurer, and an insured, there is no consumer transaction to which the MCPA and the UTPA can apply.

> the insurer argued that because Gloria's claim was one for statutory benefits payable under the assigned claims plan, based on no policy of insurance, and involving no predicate consumer purchase transaction, Gloria could not invoke the MCPA.

Alternatively, Auto-Owners also argued that, in light of the MCPA's six-year limitations period, its requirement that claims be made within one year after the last payment, and its bar to actions based on conduct occurring after March 28, 2001, Plaintiff's MCPA claim against Auto-Owners was time-barred. Plaintiff's June 2013 complaint was not filed within one year of *Auto-Owners'* last payment, nor within six years after *Auto-Owners* last serviced Gloria's claim, in August 1998. Auto-Owners contended that Plaintiff's implicit, though unarticulated, contention that *Citizens'* last payment, *in 2013,* could serve as a proxy "payment in a transaction" triggering a right of action under the MCPA *against Auto-Owners,* based on conduct that occurred *no later than August 1998,* was belied by Plaintiff's having named Auto-Owners and Citizens as separate defendants, and having included separate counts against each in her complaint. Therefore, Auto-Owners urged, the MCPA's six-year and one-year-after-the-last-payment limitations, MCL 445.911(7), barred Gloria's MCPA claims against Auto-Owners.

In her opinion and order in *Wilson, supra,* Judge Catherine C. Eagles, of the United States District Court for the Middle District of North Carolina, agreed with Auto-Owners' first alternative argument that the MCPA does not apply when the claimant has not purchased an insurance policy:

> The MCPA prohibits more than 30 methods, acts, and practices "in the conduct of trade or commerce," *see* Mich. Comp. Laws § 445.903(1)(a)-(kk), some of which require a predicate consumer transaction. *See DiPiero v. Better Bus. Bureau of W. Mich., Inc.,* No. 316308, 2014 Mich. App. LEXIS 2319, 2014 WL 6679406, at *3 & n.1 (Mich. Ct. App. Nov. 25, 2014) (per curiam). In her complaint, Ms. Wilson lists eight prohibited acts she contends the defendants committed. (*See* Doc. 1 at ¶ 56.) The Court does not see how the conduct prohibited in § 445.903(1)(a), (c), and (e) would apply here. (*See* Doc. 1 at ¶ 56.) *The five other subsections Ms. Wilson cites require a transaction either by their plain language,* (*see* Doc. 1 at ¶ 56 (citing Mich. Comp. Laws § 445.903(1)(n), (x), (bb), (cc))), *or based on Michigan case law. See DiPiero,* 2014 Mich. App. LEXIS 2319, 2014 WL 6679406, at *4 (discussing Mich. Comp. Laws § 445.903(1)(s)).
>
> A "transaction" under the MCPA "connotes the mutual and reciprocal acts typical of business deals that alter the legal relationships of the parties." *Id.* Here, there were no mutual or reciprocal acts between Ms. Wilson [Gloria's guardian] or Gloria and either defendant. The evidence is undisputed that Ms. Wilson applied to the Facility for PIP benefits, the Facility approved her request, and the Facility selected Auto-Owners to pay Gloria's benefits and later reassigned her claim to Citizens; *neither Ms. Wilson nor Gloria selected an insurer or negotiated or agreed to an amount of benefits.* (*See* Doc. 42-17 at 3; Doc. 42-16 at 5-6; Doc. 58-16 at 6-8, 17.) *Because there was no consumer transaction and because no other body of law allows these claims, Ms. Wilson's MCPA claims fail.* [*Wilson, supra,* at *26-*27 (emphasis added).]

Because the *Wilson* court held that the absence of a consumer transaction rendered the MCPA inapplicable, it was unnecessary for the court to address the MCPA statute of limitations and last-date-of-payment arguments that Auto-Owners had urged in the alternative. Instead, because the MCPA afforded no "back door" to prevent Auto-Owners from invoking *the No-Fault Act's* one-year statute of limitations and one-year-back rule, the court ruled that "the one-year-back rule limits Ms. Wilson's recovery to underpayments by Citizens since June 11, 2013 [the date the action was commenced]," and granted Auto-Owners' motion for summary judgment in its entirety. *Id.*, at 20.

Wilson was subsequently settled and dismissed with prejudice, so the unpublished decision in this case is the only known authority on the issue of whether a claim for Michigan No-Fault PIP benefits (in this case, an assigned claim) that is conditioned on the *absence* of No-Fault insurance can give rise to an MCPA claim. Nevertheless, though unpublished, Judge Eagles' decision is both persuasive and significant. Owing to (1) the decision in *Smith* allowing claims under Chapter 20 of the Insurance Code to be asserted under the MCPA, and (2) the decision in *Converse* holding the 2001 MCPA amendment to be non-retroactive, the No-Fault plaintiffs' bar has routinely employed an MCPA claim to reach back far beyond the No-Fault Act's one-year-back damage limitation to increase the value of the

claim and seek attorney fees recoverable under the MCPA. That theory of recovery, which is asserted only against *No-Fault* auto insurers, obviously subverts the *No-Fault Act's* cost containment objectives by allowing assigned claims to be reopened for assigned claim assessment years on which the books have long since been closed. The decision in *Wilson* appears to signal the demise of this tactic.

Implications of the Decision

More significantly, the same logic that precludes an MCPA claim in the absence of a "consumer transaction" in the assigned claim context also would seem to apply to similar claims arising in another No-Fault context: When, under the coverage priorities prescribed by MCL 500.3114 and 500.3115, an occupant or non-occupant of a motor vehicle is entitled to recover No-Fault benefits from a No-Fault insurer with which the claimant had no insuring relationship, or from which the claimant purchased no policy, it would seem that claims for No-Fault benefits allegedly unpaid or underpaid before March 28, 2001, may not simply be recast as MCPA claims. The same reasons for precluding MCPA claims that the *Wilson* Court cited in its decision in the context of an assigned claim would apply with equal force to claims asserted by non-insureds that are based solely on the No-Fault Act's priority provisions. Though such claims are not numerous, they are commonly large, because they typically involve catastrophically injured claimants who were receiving benefits before the 2001 MCPA amendments. Future cases will surely assess the continued validity of such claims in light of the reasoning of Judge Eagles' decision in *Wilson*. ■

About the Author

***Frederick M. Baker, Jr.**, served as a Michigan Supreme Court Commissioner from January 2005 through May 2013. Before that, he was a partner for 19 years in Honigman's Lansing office, in a litigation practice that included extensive appellate work. As an adjunct professor, he taught insurance and conflicts at Cooley Law School, and insurance and no-fault insurance at MSU Law School. He was a member of the full-time faculty of both Wayne Law School (as an instructor of legal writing, research and advocacy) and Cooley Law School (as an assistant professor of contracts, civil procedure, and legal writing and research). He is now of counsel to Willingham & Cote, P.C.; his email address is Fbaker@willinghamcote.com, and his website address is www.fbakerlaw.com.*

Endnotes

1 No.: 1:13-cv-470, 2014 U.S. Dist. LEXIS (M.D.N.C., Oct. 17, 2014).

2 MCL 445.901, *et seq.*

3 MCL 500.2001, *et seq.*

4 With local counsel, Walter Brock, the author represented Auto-Owners.

5 See *Smith v Globe Life Ins. Co.*, 460 Mich. 446, 466-467; 597 N.W.2d 28 (1999).

6 "(7) An action under this section shall not be brought more than 6 years after the occurrence of the method, act, or practice which is the subject of the action nor more than 1 year after the last payment in a transaction involving the method, act, or practice which is the subject of the action, whichever period of time ends at a later date." M.C.L. § 445.911(7).

7 Note that, while *Wilson* was pending, the legislature enacted an additional amendment to MCL 445.904(3), 2014 P.A. 251, which was effective 91 days after the legislature's adjournment *sine die* in 2014. The 2014 amendment applies retroactively, from March 28, 2001, to actions based on violations of Chapter 20, but it contains a savings provision for actions pending when it was adopted. The amendment, which consisted of the language italicized in the quotation that follows, thus did not apply to *Wilson* or other actions in which similar claims had been asserted:

> (3) This act does not apply to or create a cause of action for an unfair, unconscionable, or deceptive method, act, or practice that is made unlawful by chapter 20 of the insurance code of 1956, 1956 PA 218, MCL 500.2001 to 500.2093, if either of the following is met:
>
> *(a) The method, act, or practice occurred on or after March 28, 2001.*
>
> *(b) The method, act, or practice occurred before March 28, 2001. However, this subdivision does not apply to or limit a cause of action filed with a court concerning a method, act, or practice if the cause of action was filed in a court of competent jurisdiction on or before June 5, 2014.*

The compiler's notes include 2014 P.A. 251's enacting section 2, which provides: "This amendatory act is curative and intended to prevent any misinterpretation that this act applies to or creates a cause of action for an unfair, unconscionable, or deceptive method, act, or practice occurring before March 28, 2001 that is made unlawful by chapter 20 of the insurance code of 1956, 1956 PA 218, MCL 500.2001 to 500.2093, that may result from the decision on the Michigan Supreme Court in *Converse v Auto Club Ins Co*, No 142917, October 26, 2012 [493 Mich. 877; 821 N.W.2d 679 (2012)]."

8 460 Mich 446, 466-467; 597 NW2d 28 (1999).

9 MCL 445.904(3).

10 Apparently for that reason, Plaintiff's complaint contained generic allegations that the "[t]he actions of Auto-Owners and Citizens that violated Chapter 20 of the Insurance Code *occurred prior to March 28, 2001*, including misrepresentations, deceptions, failure to disclose and respond fully and truthfully, failure to investigate properly, failure to make prompt payment, etc." (Emphasis added).

11 See *Converse v Auto Club Group Insurance Company*, 493 Mich. 877; 821 N.W.2d 679 (2012).

12 See *Schwein v State Farm Mutual Automobile Ins Co*, 2014 US Dist LEXIS 17404, *1-*2 (E.D. Mich., 2-12-14). The *Schwein* Court provides a concise summary of the judicial and legislative responses to *Smith* at pp. *4 -*6 of its opinion.

13 *Slobin v. Henry Ford Health Care, 469 Mich. 211, 216; 666 N.W.2d 632 (2003)* (emphasis added.)

14 See MCL 500.3172(1), allowing a claim like Gloria's, "if no personal protection insurance is applicable to the injury."

15 MCL 445.902(1)(g) (emphasis added).

16 *Accord, Forton v Laszar*, 239 Mich. App. 711, 715; 609 N.W.2d 850 (2000) (the MCPA is a remedial statute designed to "*protect consumers in the purchase of goods and services.*"), overruled on other grds, *Liss v Lewiston-Richards, Inc*, 478 Mich. 203; 732 N.W.2d 514 (2007); *Zine v Chrysler Corp*, 236 Mich. App. 261, 270-271; 600 N.W.2d 383 (1999) ("The intent of the act is '*to protect consumers in their purchases of goods which are primarily used for personal, family or household purposes.*'...") (cited with approval in *Slobin*, 469 Mich. at 216) (emphasis added).

17 *Schwein v State Farm Mutual Automobile Ins Co*, 2013 US Dist LEXIS 123096, *8-*9 (E.D. Mich., 8-29-13).

18 *Slobin, supra. Harper v Mich. Mut. Tornado, Cyclone & Windstorm Ins Co*, 173 Mich. 459, 463; 139 N.W.2d 27 (1912) (When "no contractual relations whatever existed between the parties" when the loss occurred, the claimant's contention that he was entitled to recover for his building was "not insurance ... [i]t is vicarious philanthropy") (emphasis added). See also, *Mirunczak v Michigan Farmers Mut. Fire Ins. Co.*, 293 Mich. 65, 70; 291 N.W. 224 (1940) (Potter, J., concurring).

Annual Meeting Election of Council Members

If you want to have a hand in guiding the direction of the State Bar's newest and fastest growing section, this is your opportunity!

Date: Thursday, October 8, 2015

Time: 9 a.m

Location: Suburban Showcase, Novi

In the business portion of our annual meeting, we will be electing Council members.

Council members attend the quarterly Council meetings, and participate in one committee of the member's choice. The committees contribute to the activities of the Section by working on educational programs, outreach to other sections and organizations, and publications.

If you are new to the area of Insurance and Indemnity Law, your fresh perspective will help the Section continue to recruit new members. Serving on the Council is also a good way to make yourself visible. If you are a seasoned practitioner, it's a good way to share your expertise with your colleagues.

To declare your candidacy, send an email to Hal Carroll at HOC@HalOCarrollEsq.com.