

Negligence Law Section

Negligence Law Section Quarterly

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“Auto No-Fault was Most Significant Legislation of 2019”

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The first year of the 2019-2020 Michigan Legislative session was marked by the major budget battle that took place between Governor Whitmer and the Republican Legislative majority. Governor Whitmer’s road funding package was declared “dead on arrival” in the House and Senate, and the Legislature and Governor battled right up until the fiscal year deadline (and beyond) to come to agreement on the 2020 budget. The acrimony between the two branches continues to be strong going into the new year.

It was surprising to many in Lansing that the budget became such a massive battle after the Governor and legislative leaders were able to find harmony on the largest legislative achievement of 2019: No-Fault Auto Reform. Eliminating mandatory lifetime medical benefits in Michigan’s auto insurance law has been the Holy Grail of the insurance industry for over 30 years. When Governor Whitmer joined Legislative leaders on Mackinac Island last spring and signed into law sweeping changes to Michigan’s No-Fault Auto Insurance system, it signaled a sea change not only in the politics of the issue, but also in the relationship between the Democratic Governor and Republican Legislature. Or so it seemed.

Passage of auto insurance reform was a blockbuster moment, and it was far and away the most newsworthy and impactful legislation passed in 2019. By signing it into law, Governor Whitmer signaled openness to working with the House and Senate majorities that gave hope to further legislative achievements. Many even expected that a (excuse the term) quid pro quo might be in the works that could result in transportation funding, extra attention to the Governor’s budget priorities, or more. Based on the mess that became the 2020 budget process this fall, however, that hope was misplaced.

We begin the 2020s with a massive trust deficit in Lansing. The Legislature’s refusal to seek gubernatorial approval on their budget bills before placing them on Governor Whitmer’s desk, and the Governor’s subsequent unprecedented use of line-item veto and administrative board powers, have created a climate of suspicion and disdain between the two branches. Any amity resulting from passage of no-fault reform has evaporated completely.

The Negligence Law Section is still hoping that the various sides in Lansing can find common ground on a number of crucial issues this year. Work continues on amendments to Michigan's so-called "drug immunity" law, and it will take a strong bipartisan effort to end our single-state penalty on victims of unsafe pharmaceuticals. We are also monitoring legislation dealing with municipal liability for sewer backups, and watching for possible further amendments on auto insurance. 2019 was a very strange year that had no shortage of surprises. With the election looming just eleven months away, 2020 could well be even stranger.

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