

Summer 2024

MI POOL NEWS

A PUBLICATION OF THE MICHIGAN TRANSIT POOL

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Michigan
Transit Pool
Executive
Committee

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President

Kelly Bales
Vice President

Jim Oliver
Treasurer

Karen Mendham
Secretary

Tom Pirnstill

Mike Brown

Ken Jimkoski

Carrie Thompson

Staci Hitts

Joe DeKoning
TRL Liaison

Your ASU Team:
Glen Griffin

Kimberlee Hanes

Kristine Schreiber

Adam Wilberding

Smack Dab In The Middle Of Summer!

Since we last connected, here are some highlights you may have missed.

Annual Meeting:

This year's annual meeting was held in Antrim County at the Shanty Creek Resort on May 14th and 15th. Everyone loved the scenery and accommodations and have voted to return here for next year's annual meeting on May 20th and 21st, 2025! We would love to see you there next year. Save the Date!

Election Results:

Kelly, Ken were re-elected to their positions.

Kelly Bales and Ken Jimkoski were re-elected to their Executive Committee positions by the full board. Tom Pirnstill has decided not to seek re-election due to his upcoming retirement. No nominations were advanced to fill Tom's position at the Annual Business Meeting. Tom's term expires on November 30th, 2024.

The Executive Committee will work to appoint someone to fill that position. Please let us know if you have an interest in being considered as a member of the Executive Committee.

Since our next edition will not be published until January, we would like to take this opportunity to thank Tom Pirnstill for his years of service, many contributions and commitment to the Michigan Transit Pool and Executive Committee. Tom used to like to bring Cops and Doughnuts treats to our meetings. They will surely miss his business as much as we will miss him and those doughnuts!

Larry Alpert, MTP Vice President, informed us he is no longer at SATA and therefore, he is no longer eligible to serve on the Executive Committee. The Executive Committee appointed Kelly Bales to fill the Vice President position. Kelly's departure from the Secretary position will be filled by the appointment of Karen Mendham. With Karen's appointment to the Secretary position, the Committee has appointed Staci Hitts of Mecosta Osceola Transit Authority to fill the remainder of Karen's term as an Executive Committee member.

Thank you all for your willingness to contribute!

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Spotlight on:



Greater Lapeer Transportation Authority

Greater Lapeer Transportation Authority (GLTA) was established in 1987. GLTA started as a venture between the City of Lapeer and three townships. Within a few years, two additional townships joined the Authority. GLTA rented a small space not far from its current location for many years. In 2002, the new site was found and the current facility was built. In 2003, GLTA moved in to the current building.

Over the years the fleet size has grown to 31 vehicles, twenty-seven (27) buses and four (4) mobility vehicles. We transport just under 11,000 passengers monthly. In 2022, GLTA was able to launch our Rides to Wellness by GLTA mobility service. This was very exciting for GLTA and our community to be able to provide this type of door-to-door service. Since our launch date, our ridership has grown each month.

Our continued hope is to build and expand our facility to our parcel of land that we own right across the street from our current facility. The added facility/Fueling station would help GLTA provide additional services to the community.

Thank you for taking a quick and small peak in to Greater Lapeer Transportation Authority (GLTA) If you are in the area, please stop by so we can give you the grand tour!!



MTP Risk Management

Adam Wilberding

Continuous Improvement Process

Every organization experiences accidents and mistakes. No one is immune from our human condition of being less-than-perfect. Those accidents and mistakes alone do not define who we are, but rather those actions we take (or do not take) in response. Our follow-up actions define us and demonstrate our character, both as individuals and as a team.

Through corrective and preventive actions, we routinely achieve significant improvements. Success comes to organizations who consistently practice a continuous improvement process. In fact, I know this to be true because of my direct experience over the last three decades. In this article, we will review how a safety committee can bring about continuous improvement.

Like many other branches of federal and state government, the Federal Transit Administration (FTA) has enacted the legal requirement (i.e., Bipartisan Infrastructure Law) to have a safety committee. Specifically, those agencies receiving Section 5307 funds and serving an urbanized area with a population of 200,000 or more, must establish a safety committee. Aside from approving the Agency Safety Plan (ASP), the safety committee is also responsible for, at a minimum:

- 1.) Identifying and recommending risk-based mitigations or strategies necessary to reduce the likelihood and severity of consequences identified through the agency's safety risk assessment;
- 2.) Identifying mitigations or strategies that may be ineffective, inappropriate, or were not implemented as intended; and
- 3.) Identifying safety deficiencies for purposes of continuous improvement.

A safety committee that is trained to perform root cause analysis is a great asset. Safety committee members routinely identify both corrective actions to help address current deficiencies and preventive actions to help prevent future recurrences. They also help to implement and monitor the actions taken. In most instances, due to each member's involvement, there is widespread support or "buy-in" for the intended outcome. A myriad of ideas and perspectives produce the best solutions and create the opportunity for effective, lasting improvements.

Running an effective safety committee involves clear goals, strong leadership, active participation, and continuous improvement. Here are some steps to ensure your safety committee is successful:

Continued:

- **Identify and Assess Hazards**

Conduct Inspections: Regularly inspect the workplace to identify potential hazards.

Review Incident Reports: Analyze past incidents and near-misses to identify trends and areas for improvement. Be sure to take appropriate time to complete a root cause analysis.

Recommend corrective and preventive actions.

- **Develop and Implement Safety Programs**

Safety Policies: Develop clear safety policies and procedures based on identified hazards.

Training Programs: Implement training programs to educate employees on safety practices and procedures.

- **Monitor and Review Progress**

Track Performance: Use metrics and key performance indicators (KPIs) to track the effectiveness of safety programs.

Continuous Improvement: Regularly review and update safety programs based on performance data and feedback.

- **Promote Safety Culture**

Lead by Example: Ensure that management and committee members lead by example in following safety protocols.

Recognition and Rewards: Recognize and reward employees who contribute to workplace safety.

- **Document and Report**

Keep Records: Maintain detailed records of all meetings, inspections, incidents, and corrective actions.

Report to Management: Regularly report the committee's findings and progress to senior management.

- **Engage with External Resources**

Regulatory Compliance: Stay updated on relevant safety regulations and standards.

Consult Experts: Engage with external safety experts or consultants as needed.

By following these steps, your safety committee can fulfill a crucial role in fostering a safer work environment, and promoting a culture of safety and continuous improvement within the organization.

Please consider attending one or more of the remaining Risk Management Subcommittee Meetings, which are scheduled for the following Monday's from 9:00am to 10:30am.

■ September 9 ■ November 11

Both in-person and virtual attendance options are available. We value your input; we want your input! Stay focused, stay safe!



Legal Update on Recent Appellate Court Cases

by David Klevorn
Murphy & Spagnuolo, P.C.

As part of our firms' practice in the area of No-Fault first and third-party defense, we regularly survey the lay of the land in recent appellate cases – both published and unpublished. This helps guide defense strategies moving forward to see the trends in arguments that plaintiffs' attorneys are making and how those are interpreted and ruled upon by the judiciary.

The following are a few cases worth highlighting from which transit authorities can draw some conclusions moving forward.

Arnold v City of Detroit, 2024 Mich. App. LEXIS 3802 (2024)

DOI: November 6, 2019

LC: Wayne Circuit Court. LC No. 20-014518-NI.

COA: No. 366368 (decided May 16, 2024)

In an appellate case decided just weeks ago, the Court of Appeals reversed the granting of summary disposition and dismissal of a case involving first and third-party claims against the City of Detroit arising out of a bus incident where the bus clipped the Plaintiff's driver-side door which Plaintiff opened into a lane of traffic.

The Plaintiff in Arnold was retrieving a diaper bag from a parked vehicle which was parked on the street. Plaintiff testified he did not observe the bus before he attempted to exit the parked vehicle from the driver's side door. The City bus struck the open door of the vehicle, causing injuries to the Plaintiff.

Despite the trial court initially dismissing the case on the basis of Government Immunity under the GTLA and the fact that the accident was a result of the Plaintiff opening the car door into traffic in violation of MCL 257.676b, the Court of Appeals reversed this decision and revived the dismissed lawsuit.

The Court of Appeals found that Plaintiff had brought a viable lawsuit by alleging the bus driver breached his duty of care by not having the bus under constant control, failing to properly observe the presence of people in the road and take timely and appropriate action to avoid a collision, and violating other duties. The bus driver testified that this incident never happened, which the Court of Appeals held did not sufficiently dispute the allegations of negligence.

This case can be taken as an incentive to maintain working video camera systems on busses, as the Court of Appeals found it relevant in its reversal that the City did not produce any evidence that specifically refuted the allegations of negligence by its bus driver in the events leading up to the collision.

Merely having its driver's testimony that the collision never happened was insufficient to justify dismissal of the case, in the Court of Appeals' analysis. Had video been present and preserved for this bus or in similar incidents, then protracted litigation could potentially be more easily avoided.

Day v Suburban Mobility Auth, 2022 Mich. App. LEXIS 6134 (2022)

DOI: June 7, 2018

LC: Macomb Circuit Court. LC No. No. 2019-000199-NI

COA: No. 356848 (decided October 13, 2022)

Unlike the prior case of Arnold above, this matter did involve an accident with a functional bus camera system – however, the Court of Appeals still found that summary disposition on the basis of government immunity was inappropriate for the defendant SMART given a question of fact as to whether or not the bus driver was negligent existed in the minds of both the trial court and Court of Appeals.

This accident occurred at about 5:45 a.m. when the SMART bus rear-ended a street sweeper. There were several street sweepers in the area and the bus driver indicated that the cloud of dust “completely eliminated [his] ability to see the road ahead.” The bus driver hit his brakes but was not able to stop in time to avoid the collision with rear-ending the street sweeper which he could not see in the cloud of fog.

Plaintiff was a passenger on the SMART bus and claimed injuries. The police officer who investigated and filled out the traffic report found that both the SMART bus and street sweeper performed “hazardous actions” – the bus for failure to ensure a safe distance to stop and the sweeper for creating a large cloud of dust with no visible warning signals.

SMART filed a motion for summary disposition, arguing that the video evidence showed the accident was non-preventable – due to the very limited daylight at 5:45 a.m. and large, improper cloud of dust caused by the street sweeper. SMART argued the dust cloud itself was invisible until it was too late to avoid the collision due to the limited daylight.

Ultimately, the trial court held and Court of Appeals affirmed that summary disposition based on the sudden emergency defense was not warranted for the bus in this case because the dust cloud was apparent before the bus entered it and the data indicated the bus accelerated to 49 mph just before impact despite the speed limit dropping at the intersection prior to the accident from 50 mph to 45 mph.

In holding that the sudden emergency doctrine did not absolve SMART's bus driver under the circumstances in this accident, the Court of Appeals stated that the key inquiry was not whether the dust and conditions from the street sweeper were unexpected, but rather “whether either the sweeper or the cloud was visible – an inquiry that does not turn on whether the driver was actually looking at it.”

The above case result highlights the importance of continued driver training – including in the areas of accident preventability and road awareness. The Michigan Transit Pool’s website and member-only materials portal section on risk management has resources available on the topics of rear-end collision avoidance, accident preventability procedures, distracted driving, driver fatigue, and other helpful resources.

Conclusion

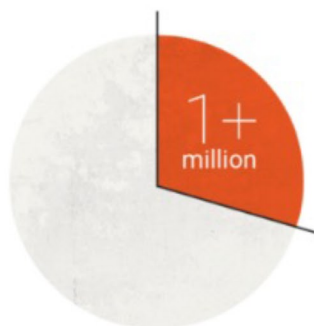
Our office encourages transit entities to monitor the changes and updates in Michigan law and continue to educate and train their drivers accordingly.

The general information provided in the above article in no way constitutes legal advice as every situation is different. MTP members should consult with their attorneys for specific guidance.

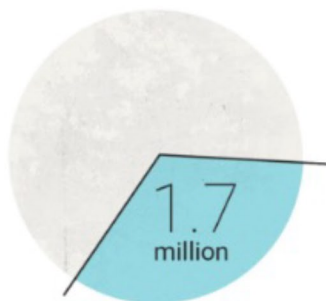


As an MTP member, you and your employees have FREE access to the learning management system called Mineral (formerly ThinkHR)! It’s an HR and compliance platform with guidance and training from **Employee Health and Safety, Employee Training and Developing, Guided HR Compliance, Workplace Harassment Prevention Training, and Workplace Safety Training.** The ASU Group offers this platform free to its clients.

Mineral is your go-to for white papers, case studies, data sheets, employee training, recorded webinars and more! If you have not taken advantage of this yet, contact Adam Wilberding at Adam@strategicsafety.net for login credentials to discover the wealth of knowledge to train, refine, and up-skill your staff.



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***THANK YOU FOR LETTING
US BE A CONTINUED
PART OF YOUR JOURNEY.***

