



# THE PAR-PLAN NEWS

The Official Newsletter of the Michigan Township Participating Plan

### Par Plan News Editorial Staff:

**Pat Mead**-Benzonia Township  
Benzie County

**John Jones**- Ira Township  
St. Clair County

**John Buckhout**-Kalamazoo Township  
Kalamazoo County

## *Season's Greetings*

*from your  
Par-Plan Board and Service Providers*

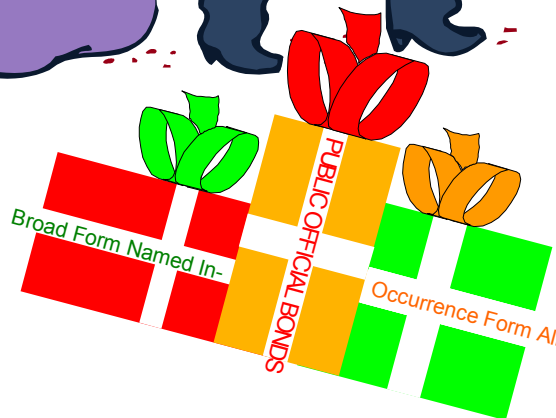
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Although every effort to ensure the accuracy of information in this newsletter has been made, professional counsel should be sought before any action or decision is made based on material contained herein.



The Michigan Township Participating Plan will be sponsoring the following events during the 2001 MTA Educational Conference in Grand Rapids. Please mark your calendars and attend the festivities:

Tuesday, 1-16 Par- Plan Hospitality Suite  
8:30 – 11:00 p.m.  
Grand View B-C / Amway Grand Hotel

Wednesday, 1-17 Fun Night / Las Vegas Casino  
8:30 – 10:30 p.m.  
Welsh Auditorium

Thursday, 1-18 Education Workshop-Sexual Harassment  
1 p.m. and 2.45 p.m.

MTA Theme Dinner  
Par-Plan - 20's – 40's Room  
7:00 – 9:00 p.m.  
Welsh Auditorium  
*See You There!*

**REMEMBER:**

Members of the Michigan Township Participating Plan do not have to obtain Public Official Bonds from outside sources.

PAR PLAN PROVIDES PUBLIC OFFICIAL BONDS AT BASIC LIMITS FOR NO ADDITIONAL COST.

For more information please contact your Par-Plan Risk Manager

**NOTICE OF QUARTERLY BOARD MEETING**

The winter quarterly Par-Plan Board of Directors meeting is being hosted by Zone 8 Director John Buckhout of Kalamazoo Charter Township in Kalamazoo County.

**Friday, February 2, 2001 at 10:00 am.**

Hall Location: 1720 Riverview Drive  
Kalamazoo, Michigan 49004  
(616) 381-8080

The Par -Plan Board of Directors, Program Administrators, and Par-Plan Member Service Providers wish to extend best wishes for the coming year to Larry Merrill, Executive Director of the MTA.

**Par-Plan Board of Directors**

Term: July 1, 2000 through June 30, 2001

**ZONE 1**  
Paul Lehto  
Calumet Township  
(906) 337-2410

**ZONE 2**  
C. R. St. Martin  
Seney Township  
(906) 499-3322

**ZONE 3**  
Pat Mead, Vice Chairman  
Benzonia Township  
(231) 882-4411

**ZONE 4**  
Joe Faino  
Denton Township  
(517)366-5913

**ZONE 5**  
Jim Beelen  
Allendale Charter Township  
(616) 985-6295

**ZONE 6**  
Mark Harnden  
Williams Charter Township  
(517) 662-2675

**ZONE 7**  
John Jones, Chairman  
Ira Township  
(810) 725-0263

**ZONE 8**  
John Buckhout  
Charter Township of Kalamazoo

**ZONE 9**  
Bob Skrobola, Secretary  
Pittsfield Township  
(734) 944-3140

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MIDWEST CLAIMS SERVICE  
ATTORNEY OF THE YEAR  
David Werth Esq.  
September 21, 2000



Midwest Claims Service attorney of the year for the year 2000 is David Werth, Esq. David is a partner, with the law firm of Boyce, White & Werth, Alpena Michigan.

Each year an attorney is selected from our team of appointed counsel for this honor. The evaluation and selection is based upon compliance with Midwest Claims litigation manual, dealing with complex legal issues, negotiations with plaintiff's counsel and bringing litigation to a conclusion in the best interest of the insured member. The attorney of the year trophy was presented to Mr. Werth at our annual fall attorney claims conference.



Midwest claims Service recognizes members of the team of appointed counsel that have been providing legal services to members of the Michigan Township Participating Plan for over ten years. The inscription read "In appreciation of dedicated service in defending members of the Michigan Township Participating Plan over the past decade, presented this day September 21, 2000.

Photograph from left to right Mr. James Nelson, the firm of Nelson, Kreuger & Schrotenboer, Grand Rapids, Michigan. Robert Seibert, the firm of Seibert & Dloski, Mt. Clemens, Michigan. Robert Grote the firm of Staub, Seaman & Allen, St. Joseph, Michigan. Lyle Peck the firm of Lyle Peck & Associates, Saulte Ste. Marie, Michigan. Tim Bahorski, the firm Secrest, Wardle, Lynch, Hampton, Truex & Morley, Farmington, Michigan. Joe Bryne, the firm of Ford, Kriear, Domeny & Bryne, Portage, Michigan. Jim Youngblood Vice President, Midwest Claims Service. David Mechlin, the firm of Vario, Mechlin, Tomasi, Johnson & Manchester, Houghton, Michigan. Brian Cardeccia, Claims Supervisor, Midwest Claims Service. Fred Lucas the firm of Lucas & Worker, Onsted, Michigan and Bryan Graham, the firm of Young, Graham & Elsenheimer, Bellaire, Michigan.

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# Sewer Back-up Problems

James Youngblood  
Midwest Claims Service

What happened that created a flurry of activity in municipalities and the courts regarding sewer back-up problems? To address this issue we must first look at what has happened in the courts. For years, municipalities enjoyed governmental immunity.

Sewer back-ups are not a new problem. Homeowners in the past, would not look to the public entity for relief, but would handle the mess themselves. That has changed.

In 1988, the Michigan Supreme Court came down with a decision that held that municipalities could be held liable for damages if the municipality set the reverse flow of sewage in motion. At the same time the court created a new exception to the governmental immunity statute called “**trespass nuisance**”. Trespass nuisance is trespass or interference with a party’s use or enjoyment of land caused by physical intrusion set in motion by government or its agents and resulting in personal or property damage.

The case heard by the Supreme Court was **Hadfield vs. Oakland County Drain Commission**. The facts of this case involved a property owner who sued to recover for flood damage allegedly caused by a counties failure to maintain drainage culverts. The courts took this decision and applied it to sewer back up claims from the reverse flow of sewage into residents private property.

In April 2000, there was a subsequent decision , **CS&P vs. City of Midland**, which upheld the Hadfield decision and expanded on the law. In the City of Midland case the court said that negligence was not an element to determine liability. Although not stated, this makes this type of claim virtually strict liability.

Since that decision insurers have paid millions of dollars for sewer back up claims where premiums were never charged or contemplated for this exposure. All of the programs operating in Michigan are addressing this problem. The Par-Plan is currently gathering exposure information from all members in order to make an accurate evaluation of the exposure on a state-wide basis. This will allow us to properly evaluate various coverage options and appropriate premiums for those members dealing with this problem.

**We have enclosed a detailed questionnaire that we would appreciate you taking the time to complete and return to the Par-Plan office.**

**If you do not have a system, please return the questionnaire anyway and state your entity name and answer the first question with a NO so we will have a complete count. (As you know by recent events an accurate count is VERY important.)**