

# FIELSTRA SHIBLEY, P.C.

RANDALL D. FIELSTRA\*  
PAUL E. SHIBLEY

ATTORNEYS AT LAW

TOLL FREE (800) 637-7083  
FACSIMILE (231) 728-5545

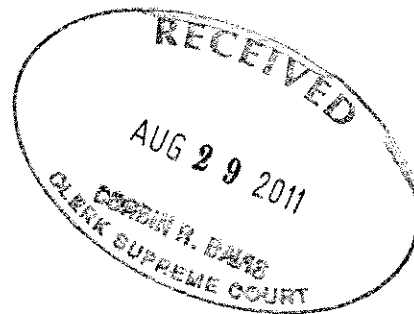
\*Also admitted in South Carolina

Hines Building  
380 W. Western Ave.  
Suite 250  
P.O. Box 1026  
Muskegon, Michigan 49443  
(231) 725-8444

www.muskegoninjurylawyers.com

August 26, 2011

Supreme Court Clerk  
Michigan Supreme Court  
PO Box 30052  
Lansing, MI 48909



RE: ADM File No. 2010-07  
Proposed Amendment of Rule 1.5 of the  
Michigan Rules of Professional Conduct  
(MRPC)

Dear Supreme Court Clerk:

I am an attorney who for nearly 17 years has practiced almost exclusively within the field of plaintiff personal injury practice. I am an Executive Board Member of the Michigan Association for Justice as well as member of the State Bar of Michigan Negligence Law Section.

This letter is being sent to voice my very strong objection and my very strong opposition to the proposed changes to Rule 1.5 of the Michigan Rules of Professional Conduct (MRPC).

I also strongly support the position voiced by attorney David E. Christensen, Chairman of the Negligence Section Counsel, State Bar of Michigan, which was stated in Mr. Christensen's August 1, 2011 letter to the Supreme Court Clerk with respect to ADM File No. 2010-07.

In the course of my 17 years as a plaintiff personal injury attorney I have handled dozens of cases on referral from other lawyers and have also referred dozens of cases to other personal injury lawyers who handle medical malpractice or civil rights violation cases, which I prefer to refer to those more versed in those particular fields of personal injury practice.

I would like to believe that any proposed changes to the Michigan Rules of Professional Conduct and particularly the changes to MRPC 1.5, would be made with the intent to enhance protections afforded to clients if they find themselves in the unfortunate position of needing to retain a personal injury lawyer.

There simply is no basis for the proposed amendment to MRPC 1.5. Imposing a 25% cap on personal case referral fees has a much greater potential to harm such clients.

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I have sat as a plaintiff Case Evaluator in numerous instances in which the attorney representing the injured individual did not have adequate understanding of the intricacies of how Workers' Compensation, Medicare or ERISA liens interplay with third party injury or liability claims. I have witnessed attorneys who are handling auto negligence claims completely prejudice their clients by not properly dealing with complicated lien or medical expense issues.

Currently, one of the most complicated aspects of third party auto negligence injury practice is a glaring inconsistency between Michigan law, which does not allow an injured party to recoup their medical expenses from the at fault driver's auto insurance, and Federal cases which recognize that an ERISA based health insurance plan has an almost "super lien" like entitlement to recoupment of the amounts paid for auto accident related medical care from any potential recovery source, including the injured person's pain and suffering (non economic) payments received by the injured party's insurer.

Add to this the complexity of dealing with Medicare liens, which are extremely difficult to ascertain, and if not properly paid, can result in the injured party losing their right to Medicare and/or Social Security Disability benefits.

Furthermore, with respect to plaintiff medical malpractice cases, the law in this field is absurdly complicated. In the past 10 years there has been extensive litigation concerning what steps need to be taken in order for an out of state notary to be valid in Michigan.

In short, these are truly complicated times for personal injury lawyers as well as for the clients they are fighting to protect. This is certainly not the time for imposition of a revised MRPC 1.5. The proposed amendments will not enhance protections to clients, but rather place them at risk by unqualified or inexperienced counsel. In reducing the amount of allowed referral fees, attorneys who do not specialize in personal injury practice will have much less of an incentive to refer cases to those more informed in plaintiff personal injury practice. Thus, the presumed purpose of the MRPC 1.5 amendments - to further protect clients - is clearly not going to be achieved.

Strong referral relationships also serve to greatly maximize the result obtained by the lawyer for the injured client. As an attorney who is fortunate to receive referrals from attorneys throughout the state, I know that if I obtain an excellent result for the client, and I am able to pay a referral fee, that the referring lawyer will be able to confidently refer me to additional potential clients. The proposed amendment to MRPC 1.5 will discourage those relationships between lawyers and place injured clients at risk.

One of the most harmful, if not destructive, proposed MRPC 1.5 changes is contained at Section 1.5(f). That proposed change would require a judicial hearing to determine whether and why a referral or shared fee of more than 25% is appropriate.

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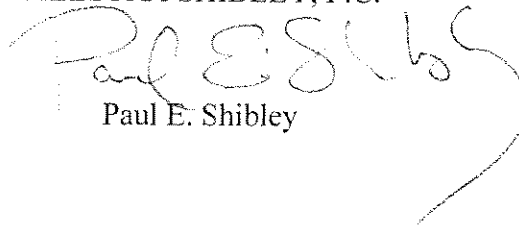
That proposed change subjects the client and referral attorney to the loss of longstanding traditional concepts of confidentiality and privilege. As drafted, the lawyer involved in the case would be required to disclose privileged information as well protected work product with respect to the specific activities undertaken by the handling of the client's case. That disclosure has the high potential for harm to the client with no meaningful benefit.

Mr. Christensen's August 1, 2011 letter on behalf of the State Bar of Michigan Negligence Law Section outlines five points as to why the proposed rule 1.5 changes should not be implemented. I strongly agree with all points made by Mr. Christensen.

However, this letter is prepared to emphasize that the proposed Rule 1.5 changes will do nothing to benefit or protect clients while the current referral system promotes the protection of injured clients by affording them representation by the most experienced and qualified attorneys in the complicated practice of personal injury litigation.

Very truly yours,

FIELSTRA SHIBLEY, P.C.



Paul E. Shibley

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