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## **Brain Injury Association joins new suit to get data that helps Michigan Catastrophic Claims Association set rates**

**By Chad Halcom**

The Brain Injury Association of Michigan today got behind a second civil lawsuit demanding access to the claims records data that the Michigan Catastrophic Claims Association uses to set its rates to insurers.

The association and six residents of Macomb, Ingham and Osceola counties this morning brought a suit in Ingham County Circuit Court against the nonprofit reinsurance organization that reimburses all automobile insurers in the state for lifetime medical benefits that exceed \$500,000.

At the end of next week, the Catastrophic Claims Association increases its annual premium charged to member insurance companies by \$30 — to \$175 per insured vehicle — to cover benefits. It's the largest annual increase since fiscal 2004 and the fourth increase since the premium was \$104.58 in fiscal 2009.

The Brain Injury Association is also part of the 28-member Coalition Protecting Auto No-Fault, which brought a civil lawsuit against the association this year. The coalition seeks records under Michigan's Freedom of Information Act for injury claims the association has serviced for insurers.

"The information from MCCA records will facilitate the understanding of these issues by catastrophically injured victims, policyholders as well as individual Michigan legislators," Brain Injury Association President Mike Dabbs said in a statement.

"To not provide access to this information to the very individuals who would be affected most by its purported consequences is tantamount to a CEO of a publicly traded company refusing to share financial information with the shareholders after making forward-looking statements about imminent financial insolvency. Informational blackout is not exactly a way to win the public trust."

The association contends it is not subject to FOIA, and its attorneys have brought a motion to dismiss that case before Ingham County Circuit Judge Clinton Canady. But the new suit does not rely on FOIA and instead invokes a 1978 Michigan Supreme Court ruling that allows auto no-fault customers to "have notice as to how their rates are determined."

The new lawsuit is assigned to Ingham Circuit Judge Paul Manderfield, but the Brain Injury Association has brought a motion to have it combined with the lawsuit filed by the Coalition Protecting Auto No-Fault that's pending before Canady.

"MCCA has refused to provide even the most basic information necessary for Michigan's auto ratepayers to inform themselves of what factors impact their rates and the rationale underlying the rate-setting process," the lawsuit states. "It is also the function of MCCA to wisely and prudently invest and protect the vast sums which have been entrusted to them."

The association furnishes aggregate financial data in a yearly report to the Michigan Office of Financial and Insurance Regulation, including yearly assessment income and investment income, total insurer reimbursements and numbers of open and closed claims.

But it does not furnish other data that coalition members have sought, including the duration of past claims and actuarial standards and data used to compute the funding reserves it needs to cover claims.

The Catastrophic Claims Association's July 1 cost increase is expected to be rolled into premiums that member insurers charge their customers. The insurers cover about 6.97 million vehicles in Michigan — although large commercial carriers pay a different premium for catastrophic care coverage on their vehicle fleets, and antique and classic cars are assessed only 20 percent of the standard premium.

Gloria Freeland, executive director of the Catastrophic Claims Association, did not immediately return a phone call seeking comment on the new lawsuit.