

## Debate continues on 'pain and suffering'

By Tim Richard  
Staff writer

Doctors and insurers continue to battle their case for state limits on "pain and suffering" damages for personal injury lawsuits.

And a Southfield attorney Tuesday gave a Senate Judiciary Subcommittee a Senate Judiciary Subcommittee a "single defendant" for hospital-based cases to cut down defense costs.

It is a new argument, one that is being made for the first time, said Dr. Chris Sawhney, a chief of surgery for two downtown health facilities. He argued for laws to cap liability.

"The perception is that in Michigan it is a nuisance to practice medicine," said Sawhney, detailing his group's loss of obstetricians and urologists.

**'The perception is that in Michigan it is a nuisance to practice medicine.'**  
— Dr. Chris Sawhney

Sawhney said costs of insurance have risen from \$400,000 in 1985 to \$800,000 in 1987 to \$1 million in 1989 for his group of 25 doctors, seven of whom left.

California showed how to cut liability insurance costs with reforms similar to those in four Michigan Senate bills, according to Kimber Lantry, vice president of a California-based insurer.

Lantry said the laws passed in 1985, but their effect was delayed

cent for awards of less than \$1 million, and 50 percent for awards of more than \$1 million. It would also prevent use of non-practicing "expert" witnesses. Sponsor: Schwab.

Panel chair William Van Regenmortel, R-Detroit, announced a public hearing at 1 p.m. Friday, Oct. 31, in the Troy Civic Center, 330 W. Beaver.

DAVID GETTO of the Southeastern firm of Schwartz, Schwartz and Silver offered the Michigan Trial Lawyers Association's single defendant proposal:

"Under the single defendant system, in hospital-based cases, the hospital would be the only defendant named — and only one defense team would have to be established, greatly reducing costs associated with multiple defendants."

"The single defendant plan also would reduce the expense of the possibility of hiring their own defense teams."

"It would also eliminate the number of times physicians say they suffer when they are named in a suit."

Getto, who was MTLA's lawyer in a "Patient's Right to Know" Bureau that people call to check on the practice records of doctors they are considering.

"Our state's doctor disciplinary system should be strengthened to get the few bad apples responsible for far too many cases of malpractice out of our hospitals and clinics," Getto said.

A MINNESOTA study found insurance companies overcharged doctors for malpractice insurance, said a witness brought in by the Michigan Consumer Alliance, Lansing.

Michael Hartz, former Minnesota insurance commissioner and unsuccessful Democratic-Farm-Labor candidate for governor in 1990, presided over the investigation of malpractice insurance rates.

"The frequency of physician malpractice claims has not changed measurably over the last six years," Hartz's report concluded. Nor has the average limit of claims changed.

With only two companies handling malpractice insurance in Minnesota and the Dakotas, Hartz concluded they were able to raise premiums in a non-competitive market.

DESPITE A 1983 partial reform of Michigan's liability system, Sawhney said costs of insurance have risen from \$400,000 in 1985 to \$800,000 in 1987 to \$1 million in 1989 for his group of 25 doctors, seven of whom left.

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Area man will head state bar

Fred L. Woodworth of Birmingham will become 37th president of the State Bar of Michigan at its annual meeting next week in Detroit.

Woodworth is a partner in the Detroit law office of Dykema Gossett, specializing in antitrust, trade regulation, federal and state regulations and commercial litigation.

Woodworth will address the remarks at a breakfast, vice president and chair of his anti-trust law section.

A coin lecture graduate at the Brook School in Bloomfield Hills, he earned a degree in economics from the University of Michigan and a J.D. with distinction from the University of Michigan Law School. He and his wife, Anne, are parents and grandparents of four college students.

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## Feud between judge, prosecutor continues

By Pat Murphy  
Staff writer

An Oakland circuit judge and the county prosecutor each fired salvoes this week, as their ongoing feud continued.

The new battle will likely involve the chief judge.

Judge David F. Brock Wednesday issued a 25-page opinion saying he is not biased — as alleged by Prosecutor Richard Thompson — and refusing to disqualify himself from criminal cases.

While 30 members of the volume of Brock's opinion, the prosecutor held a press conference, saying the judge's action was hardly surprising, but wrong-headed.

"Any judge foolish enough to try to intimidate me into plea bargaining is not wise enough to realize

**'He could never give us a fair hearing.'**  
— Prosecutor Richard Thompson on Judge David F. Brock

to review his complaint.

No hearing date had been set as late Wednesday.

The dispute between Brock and Thompson had been simmering for some time before going public last month.

In 20, Aug. 20 letter, Brock accused Thompson of being "indefatigable and said his 'hard and fast' policy — like the prosecutor's refusal to plea bargain — was wasting the court's time as well as tax dollars.

Clitics, however, say the prosecutor is more likely concerned about the election of 1992.

Thompson accused the judge of "blackmail," "retaliation" and "intimidation," with his threat to jeopardize future budget allocations.

It is that notion to which Brock responded Wednesday with his 25-page opinion. In it, Brock said there is no objective evidence to support the prosecutor's claim, and thus no reason to disqualify himself.

THE JUDGE also defended his letter to Aug. 20, calling it an invitation to dialogue aimed at resolving mutual problems.

The county's efforts in writing the letter were, and are, aimed at assuaging law enforcement, the bar, and the bench to dispose of each criminal case in a fair and just manner for all involved, not only the prosecutors, attorneys and defendants, but especially victims, at the least out of the taxpayers' pocket, Brock said in his opinion.

In private, however, some of Brock's colleagues concede the judge may have taken the wrong approach by intervening the prosecutor's budget.

**Court seeking volunteers**

Oakland County Probate Court Volunteer Programs will hold a two-session training event, 5:30 p.m. Wednesday, Sept. 23, and Thursday, Sept. 24 in Pontiac.

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