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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92058315
Party	Plaintiff State of Michigan
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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State of Michigan)	
)	
Petitioner,)	Reg. Nos.: 3992159
)	3348635
)	
v.)	
)	
M22, LLC)	Proceeding: 92058315
)	
Respondent.)	
)	
_____)	


**PETITIONER STATE OF MICHIGAN'S
COMBINED MOTION FOR PARTIAL SUMMARY JUDGMENT
AND BRIEF IN SUPPORT**

Petitioner, State of Michigan (State), by and through its attorneys, Bill Schuette, Attorney General, and Toni L. Harris, Assistant Attorney General, hereby moves for partial summary judgment under Fed. R. Civ. P. 56 on its claims that Respondent's marks at issue in this Proceeding, which are virtually identical to the State's trunkline highway route marker, are not protectable as trademarks under 15 U.S.C. § 1052 because they are in all material respects identical to governmental insignia and falsely suggest a connection with the State of Michigan. Accordingly, Respondent's registrations must be canceled.



In support of its Motion, the State of Michigan states as follows:

INTRODUCTION

The State adopted its distinctive state route design nearly a century ago as an insignia of its authority over state trunkline highways. The State's authority over such highways is established under Michigan law, which, in accordance with federal law, adopts and mandates compliance with the national Manual on Uniform Traffic Control Devices as supplemented by the State with approval by the Federal Highway Administration (FHWA).

Since the early 1970s, the State has continuously used the current sign design, i.e., , which has been incorporated into the MUTCD since it was rewritten by the FHWA in 1971.

The State's sign is a traffic control device in compliance with state and federal law, and the insignia on the device guides travelers and evidences the State's authority over its trunkline highways, as opposed to interstates, U.S. routes, and county roads. The State's sign design does not represent a governmental agency, person, monument, building, or statue. Rather, it is an insignia of governmental authority and, as governmental insignia, it is not eligible for trademark registration under the Lanham Act.

Nevertheless, Respondent registered trademarks on the State's diamond state route design, e.g.,  and , which are virtually identical to the State's sign and which Respondent uses in the exact same manner that the State uses "M22" in its trunkline road sign design (Serial Nos. 78963038 and 85041051, respectively) (collectively "Marks").

In addition to being an emblem of governmental authority, the State's sign is famously known throughout Michigan and the country as a unique identifier of popular scenic regions and routes winding throughout the State. The regions and routes, commonly denoted by the State's sign design, are well-known and well-loved by inhabitants and visitors alike, and are heavily marketed to attract hundreds of thousands of visitors every year and during every season. Residents and tourists have made an inextricable connection between the State's route marker and their favorite regions of the State, and statements by Respondent and its customers demonstrate that the Marks falsely suggest a connection with the State. As such, the registrations should be canceled.

STANDARD OF REVIEW

In reviewing a motion for summary judgment under Fed. R. Civ. P. 56(c), the Board applies the same standard as the federal courts. *Campbell v. Bassani Mfg.*, 368 Fed. Appx. 133, 134 (Fed. Cir. 2010) (affirming the Board's entry of summary judgment that the mark

was generic and, therefore, not registrable). In other words, summary judgment is appropriate when, drawing all justifiable inferences in the nonmovant's favor, the pleadings, depositions, documents, electronically stored information, interrogatories, admissions, affidavits, or other materials in the record, demonstrate that there are no genuine disputes of material fact and the movant is entitled to judgment as a matter of law. See Fed. R. Civ. P. 56; see also *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).

FACTS

A. **State and federal law establish the State's authority represented in its diamond design trunkline route marker.**

State and federal law require the State to adopt a Manual on Uniform Traffic Control Devices (MUTCD), which has the force and effect of law vis-à-vis (i) incorporation by reference into the Code of Federal Regulations, and (ii) mandatory compliance with the MUTCD, as required under the Michigan Vehicle Code. 23 C.F.R. 655.601(d), as explained in the State's Motion for Partial Summary Judgment, filed on August 28, 2015, at pp. 5-9; Michigan Compiled Law ("MCL") 257.1 *et seq.*

Section 608 of the Michigan Vehicle Code requires the State to adopt the MUTCD and specifications for a uniform system of traffic-control devices consistent with Michigan Law. MCL 257.608. (Ex. 1.) Under MCL 257.70 and the MUTCD as adopted and supplemented by Michigan, a traffic control device means "all signs, signals, markings, and devices placed or erected by *authority of a public body* or official having jurisdiction for the purpose of regulating, warning or guiding traffic." MCL § 257.70 (emphasis added). (Ex. 2.) The term "traffic control device" includes signs that are advisory in nature, including the State's highway route markers that guide traffic. See *Gorelick v. Dept. of State Highways*, 127 Mich. App. 324, 329-330; 339 N.W.2d 635 (1983) (explaining that a "pass

with care” sign, even if “merely advisory in nature,” comes within the definition of a “traffic control device.”). (Ex. 3.)

According to the MUTCD adopted and supplemented by the State:

Guide signs are essential to direct road users along streets and highways, to inform them of intersecting routes, to direct them to cities, towns, villages, or other important destinations, to identify nearby rivers and streams, parks, forests, and historical sites, and generally to give such information as will help them along their way in the most simple, direct manner possible.

(Ex. 4, p. 137, § 2D.02.)

Under MUTCD and Michigan law, the purpose of the State’s distinctive diamond shape and stylized lettering is to maintain instant recognition by travelers of the State’s authority:

*12 Where U.S. or State Route signs are used as components of guide signs, only the distinctive shape of the shield itself and the route numerals within should be used. The rectangular background upon which the distinctive shape of the shield is mounted, such as the black area around the outside of the shields . . . should not be included on the guide sign. Where U.S. or State Route signs are used as components of other signs of non-contrasting background colors, the rectangular background should be used to [sic] **so that the recognition of the distinctive shape of the shield can be maintained.***

(Ex. 4, p. 143, bold emphasis added.)

Section 609(a) of the Michigan Vehicle Code requires the State to “place or require to be placed and maintain or require to be maintained such traffic-control devices, *conforming to [the MUTCD]* and specifications, upon all state highways as it shall deem necessary to *indicate and to carry out the provisions* of this chapter or to regulate, warn or guide traffic.”

(Ex. 1, emphasis added.) Accordingly, the MUTCD has the force and effect of law in

Michigan. *Nawrocki v. Macomb Co. Rd. Comm.*, 463 Mich. 143, 181, 615 N.W.2d 702


(2000). (Ex. 5.) Local authorities may not place or maintain any traffic control device on any trunkline highway under the jurisdiction of the State, except with permission by the

State. MCL § 257.609(b). (Ex. 1.) Local authorities and county road commissions must place and maintain traffic control devices on roads under their jurisdiction as they deem necessary and as required by law; however, all such devices must conform to the MUTCD. *Id.*; MCL § 257.610. (Ex. 1.) For example, where a Michigan municipal corporation posted weight restriction signs along a county road and issued traffic citations for violations of an ordinance pursuant to the signs, the Michigan Court of Appeals held that the municipality's posting of the signs was unauthorized and, therefore, violated Michigan law. *Trenton v. County Bd. Of Rd. Comm'rs of Wayne Co.*, 116 Mich. App. 212, 218; 323 N.W.2d 340 (1982). (Ex 6.)

Moreover, any person who, without lawful authority, attempts to or, in fact, does “alter, deface, injure, knock down, or remove any traffic control device . . . or any inscription, shield, or *insignia* thereon, or any part thereof,” is in violation of Michigan law. MCL § 257.616. (Ex. 1, emphasis added.) Drivers in Michigan must obey traffic control devices unless otherwise instructed by a police officer. MCL § 257.611 (“The driver of a vehicle or operator of a street car shall not disobey the instructions of a traffic control device placed in accordance with this chapter unless at the time otherwise directed by a police officer.”) (Ex. 1.)

These federal and state laws establish the authority accorded to the State and emblemized in its trunkline highway route marker design. Long before Respondent put the route marker design on a t-shirt and other novelty items to espouse a “common passion” for the road and region in Northwest Michigan, the State's distinctive design was and remains widely known and instantly recognized as uniquely identifying the State, and as an insignia of the State and its authority over trunkline routes throughout Michigan.

B. The State developed and adopted its state trunkline route marker design in the early 1900s and has consistently used the diamond design for nearly 100 years to represent the State’s authority.

Since the early 1900s, the State of Michigan’s standard trunkline route marker design has been the shape of a diamond with a block letter “M” in the upper corner and the route number in the lower corner. (Ex. 7.) In 1913, the State’s trunkline highway known as “M-22” was established as the first state trunkline passing through the Michigan counties of Benzie, Leelenau, and Manistee. (Ex. 8, p. 139.) In 1919, Michigan began designating and signing its state trunkline highways using the diamond-shaped design to guide traffic, i.e., . (Ex. 7.)

From the early 1970s, when the United States government updated the MUTCD to standardize road signs¹, through the present, the State, with FHWA’s approval, has incorporated its diamond-shaped route marker design in the MUTCD by supplement. Over the last four decades, the sign has remained relatively unchanged. (Ex. 7; Ex. 9, 1973 MUTCD, as adopted and supplemented by the State.) Without question, Michigan’s trunkline route marker design is unique and easily distinguishable from all other state highway marker designs used in the other 49 states. (Ex. 10.) Further, as explained more fully below, the State has continuously used the unique sign design as an emblem of its authority over state trunkline highways.

In the mid-1980s, the State of Michigan Department of Transportation, in conjunction with then-Michigan First Lady Paula Blanchard acting as an advisor to the Michigan Department of Commerce, devised a route that was designated as the Great Lakes Circle Tour, a scenic road system connecting all of the Great Lakes and the St.

¹ In 1935, the first Manual on Uniform Traffic Control Devices (MUTCD) was published and approved as an American Standard. (Ex. 11, p. 3.) In 1971, the FHWA began administering the MUTCD and published a rewritten version of the manual. (Ex. 11, p. 3.)

Lawrence River. The M-22 trunkline route, and other trunkline routes demarcated by the same route marker design and applicable route number, were included in the Lake Michigan Circle Tour completed in 1986. (Ex. 12.) Great Lakes Circle Tour signs and Lake Michigan Circle Tour signs are displayed and advertised with the M-22 state trunkline route design. (Ex. 12.)

In 1993, the Michigan Heritage Route Program, created by Public Act 69 of 1993, was established to identify, inventory, protect, enhance, and promote state trunklines and adjacent land with distinctive or unique scenic, cultural, or historic qualities. (Ex. 13.) A Scenic Heritage Route is one with areas of “outstanding natural beauty whose features include, but are not limited to, significant natural features such as vegetation, land form, water, and open areas with exceptional vistas and views that singly or in combination make that area unique and distinct in character.” (Ex. 13, MCL 247.951(f).)

By its terms, the intent of Public Act 69 is to provide the State with authority to maintain and enhance the scenic roadways and surrounding areas:²

[E]stablish the state’s responsibility for the enhancement and enjoyment of Michigan’s scenic, recreational, and historic resources along its roadside by identifying and designating certain portions of the state trunk line highway system as a Pure Michigan byway . . . [and] to provide criteria for the location and length of Pure Michigan byways and adjacent areas requiring continuing and careful coordination of planning, design, construction, maintenance, land use, and development, by state and local agencies as appropriate, to encourage adjacent land use consistent with the intent of the designation.

(Ex. 13, MCL 247.952.)

Under the Act, a Heritage Route is one to which the old adage “getting there is half the fun” applies:


² In 2014, the designation “Scenic Heritage Route” was rebranded as “Pure Michigan Byway.” In accordance with MCL 247.957a, the State is in the process of replacing the Scenic Heritage Route signs posted along the M-22 route with a new marker identifying it as a Pure Michigan Byway. (Ex. 13, MCL 247.957a.)


Certain portions of the state trunkline highway system are so uniquely endowed by natural aesthetic, ecological, environmental, and cultural amenities immediately adjacent to the roadside that their use by a larger percentage of the motoring public, particularly during the recreational season, is for the experience of traveling the road rather than as a route to a destination. . . . The improvement philosophy for these roads is to maintain the essential elements of the road and the area immediately surrounding the road that create its unique character.

(Ex. 13, MCL 247.953.)

In 2001, the State designated approximately 60 miles of the 116-mile M-22 state trunkline route as the M-22 Scenic Heritage Route. (Ex. 14.) In 2015, the M-22 route, denoted by the State’s route sign design, was named by USA Today as the “#1 Best Scenic Autumn Drive in the Nation” based on a month-long poll of USA Today readers. (Ex. 15.)

C. Statements by Respondent and its customers confirm that the State’s sign is inextricably linked to the State and that the Marks refer to Northwest Michigan.

On August 29, 2006, despite the State’s consistent use of the its sign design over the last 100 years, Respondent applied to register a federal trademark on the State’s diamond state route design -  - with “M22online.com” below the sign in “tiny” print, as described by the Trademark Examiner (Serial No. 78963038). See May 2, 2007 Office Action. The mark was registered on December 4, 2007 without any reference to or consideration by Respondent of the indisputable fact that it is virtually identical to the State’s known mark, which had been continuously used by the State as an emblem of its authority for 90 years prior and remained in use at time (Registration No. 3348635).

In May 2010, Respondent filed a second application for registration of a mark -  - that the Trademark Examining Attorney determined was used in “exactly the way the Michigan Department of Transportation uses ‘M22’ in its road signs for this highway” (Serial No. 85041051). Respondent did not dispute the Examiner’s finding, but rather made a new claim of acquired distinctiveness. The mark was registered on July 12, 2011, again

without reference to or consideration of the fact that it is identical to the State's known mark, which had been continuously used by the State as an emblem of its authority for nearly 95 years prior and remained in use at time (Registration No. 3992159).


By its own admission, Respondent began selling novelty items advertising the State's route sign design to communicate a "common passion" for Michigan and, in particular, the popular tourist region recognized and known throughout Michigan and the U.S. by reference to the State's route sign, i.e., . (Ex. 16.) According to Respondent, its founders "fell in love with M-22, literally while traveling along M-22 countless times" and "M-22 was created to express a common passion for Northern Michigan." (Ex. 16.) Moreover, comments and support by Respondent and its customers, as shared on Respondent's Facebook page attached at Exhibits 17-22, confirm this shared understanding and recognition that the State's sign design is inextricably linked to the State, and that the Marks are a direct reference to Northwest Michigan:

Exhibit 17 – Strictly Business Article (2011):

For the brothers, M-22 is a way to express appreciation for the region through comfortable fashion.

"It is easy for people to relate to the road because of its cool location and most people already have an attachment to it – M-22 is a special place for people, good memories."

"The highway is the nicest, most beautiful stretch of road along any fresh water in the world."

Exhibit 18 - M22 Facebook Page (2011)

"Founded by kiteboarders in search of epic wind and waves, M-22 was created to express a common passion for Northern Michigan."

Exhibit 19 - Comment on photo of M22 on military helmet patch

Post by Nate Farran – "Great way to represent Michigan in many ways. M22. Thanks for your service."

Exhibit 20 – Facebook post by Lisa Lowery – "Hi Michigan! I just crossed the

Alps and wore my M22 jersey! Missing Michigan.” (M22000469)

Exhibit 21 – Facebook post by Lauren Graves Kropf – “Repressing m22 at the Rock and Roll Half Marathon New Orleans. And yes I had someone stop me and tell me they had a house in Leeland.”

Exhibit 22 - Comments on M22 Facebook page and wall photos of northern Michigan

- (a) Post by Don Bandemer - “How cool ! I just wish he and all the rest of our men were back home to enjoy M22 and the holidays.” (M22000493)
- (b) Post by Vanessa Rogers-Bisard – “Where I grew up.....from Onekama to Sleeping Dunes....” (M22000494)
- (c) Post by Jayme Sue – “Crazy to walk down the street of Flagstaff AZ to see someone wearing a M22 shirt and got it as a gift from his parents. Made my day brighter to see a piece of home:)” (M22000498)
- (d) Post by M22 (Respondent) - “Can you help us write a caption for this Jason Hamelin photo shot off of M22?” (M22000499, see photo of area in Michigan)
- (e) Post by M22 (Respondent) – “Video from our friends Leelanau Conservancy showing why M22 is just as good in the winter.” (M22000499-500, see photo of area in Michigan; see also Response Post by Steven O’Connor – I will be back up north in 4 days.....i can’t wait!!!)
- (f) Post by Keenan Ke – “I saw an M22 sticker today in Belleview, Fl. It was the highlight of my day and I cannot wait to be back there in July!” (M22000500)
- (g) Post by Sue Gizinski Katona – “A Fall Color Tour on M22” (M22000501, see photo of area in Michigan; see also (M22000503-504))
- (h) Post by Danielle Russell – “Pierport near Arcadia” (M22000502, see photo of area in Michigan; see also (M22000503, Sleeping Bear Dunes))
- (i) Post by M22 (Respondent) – “Does it get any better, anywhere? M22 SBP” (M22000503, see photo of area in Michigan)
- (j) Post by Crystal River Outfitters announcing a new store – “This store will offer all the best of M22 merchandise and allow us to further promote Crystal River Outfitters mission of recreating outdoors in Northern Michigan.” (M22000504)
- (k) Post by Cindy Engdahl – “M22 – most beautiful views any where!” (M22000505)

- (l) Post by Christie Luedders Overgaard – “There’s no place like home.” (M22000505-506, see photo of area in Michigan)
- (m) Post by Megan P Kelly – “Oh how I miss the sites from M22! One of my favorite drives in the whole world!” (M22000506)
- (n) Post by Carol Wilkerson Steward – “Luv it. Can’t wait to come up.” (M22000506)
- (o) Post by Julie Heile Youmans – “Snows finally came to our Missouri hideout. Love M-22 snow memories.” (M22000507)
- (p) Post by Dave Westerfield – “A painting of one of my favorite places. Now available as a print.” (M22000507, see post of painting of M22 sign along Michigan road) (M22000507)
- (q) Post by Jenny L. Powell – “I see more M22 stickers in Cincinnati than when I lived Up North [northern Michigan]! Love it and miss M-22... looking forward to M-22 this spring/summer/fall!” (M22000507)
- (r) Post by Zach Hansel – “It’s Official!!!!!! 45th parallel pride gone world wide!!!!!!” (M22000507, see photo of area in Michigan at 45th Parallel)
- (s) Post by Jarrodd Case – “just came back from a ski trip to homestead and stayed in Northport... fell in love with M22 and the beautiful area!!” (M22000508)
- (t) Post by M22 (Respondent) – “M22 Images” (M22000509; see photos of the M22 sign and areas in Michigan)
- (u) Post by Mary Meilinger DeWitt – “We are a company on M-22! At the Narrows” (M22000510, see photo of an area in Michigan)
- (v) Post by Monica Rose Schneider – “if you look close, My dad is wearing an M22 hat, he loves you guys too” (M22000510)
- (w) Post by M22 (Respondent) – “A flier from the opening of M22 on September 9, 1949.” (M22000511, see photo of flier relating to M22 highway)
- (x) Post by Mimi Ransick – “Kayaking on Big Glen” (M22000512, see photo of area in Michigan)

- (y) Post by M22 (Respondent) – “What do you look forward to doing on M22 in 2011?” (M22000512, see photo of area in Michigan)
- (z) Post by M22 (Respondent) – “Where is your favorite place for an M22 sunset?” (M22000513, see photo of area in Michigan)
- (aa) Post by Kelly DePuy Bolin – “It’s a great trip down memory lane. Glen Arbor to Frankfort. Beautiful!!!!” (M22000513)
- (bb) Post by Hope Monroe – “M22 Yes, it’s the way home.... friends, family, etc.” (M22000513); followed by Response Post by Janine Winkler – “Are you driving it soon?” (M22000513)
- (cc) Post by Matt Roush – “First time I was on M22 was between [Traverse City] and Suttons Bay in the summer of 1980 on my way to camp at Northport Stat Park. Only other place with water that color and a shoreline that pretty is US1 in the Florida Keys. . . .” (M22000514)
- (dd) Post by Kathy Brigham-Baird – Beautiful Drive into Suttons Bay and Leland. Kathy. (M22000515)
- (ee) Post by Betsy Baye – “I love to ride my Harley up and down M-22 during the spring, summer and fall seasons. The beauty and joy fills my heart and soul, every time!” (M22000516)
- (ff) Post by CaptainArt Walker Art Talker – “I really dig M-21, the Bluewater Highway. It’s like your brother road.” (M22000516)
- (gg) Post by Rita Wiseheart – “I love M22 so beautiful was there this summer, if you have never been you should go~~~” (M22000516)

ARGUMENT

I. The State of Michigan’s distinctive state route highway marker is an emblem of authority, and has been an insignia of the State dating back to the early 1900s. Accordingly, Section 2(b) bars registration of the Marks.

Section 2(b) of the Lanham Act precludes trademark registration of “other insignia of the United States, or of any State or municipality, or of any foreign nation, or any simulation thereof.” 15 U.S.C. § 1052(b). Unlike registration under Section 2(a), elements such as disparagement or false suggestion of a connection are not required to preclude

registration under Section 2(b). TMEP § 1204. Moreover, because Section 2(b) operates as an absolute bar to registration, a disclaimer of the prohibited flag or insignia, or registration under Section 2(f) or the Supplemental Register, cannot overcome the prohibition on registration. TMEP § 1204.04(a). Furthermore, the absolute bar applies to all applicants, including the governmental entity that owns the insignia. *In re City of Houston*, 731 F.3d 1326, 1330; 108 U.S.P.Q.2d 1226 (Fed. Cir. 2013).

The test for determining whether a mark constitutes “other insignia” was set forth in *In re U.S. Dept. of the Interior*, 1964 WL 8039; 142 U.S.P.Q. 506 (T.T.A.B. 1964), where, under the “ejusdem generis” rule of construction applied to the language in Section 2(b), “other insignia” refers to emblems of authority in the same general class as “the flag or coat of arms.” *Id.* at *2. “These types of insignia are pictorial in nature, they can be described, but cannot be pronounced.” *U.S. Navy v. U.S. Mfg. Co.*, 1987 WL 123804, *3; 2 U.S.P.Q.2d 1254, 1256 (T.T.A.B. 1987) (finding that the initials of the United States Marine Corp, “USMC,” was not an insignia because the “letters identify people and things associated with a particular agency within a department of the executive branch of the government, rather than function as an insignia of national significance representing the authority of the government or nation as a whole.” (Note that, in 1984, Public Law 98 525 was enacted, which deemed the initials, seal and emblem of the U.S. Marine Corps to be insignia of the United States under 10 U.S.C. § 7881.))

Examples of insignia refused registration by the USPTO because they represent emblems of national authority include the Great Seal of the United States, the Presidential Seal, and seals of government agencies which represent the authority of the government. TMEP 1204.02(a). Conversely, registrations for flags and other insignia that have not been refused under Section 2(b) include words, initials, or designs that identify people or governmental departments, or monuments, statues and buildings associated with the

United States. See *In re U.S. Dep't of the Interior*, 1964 WL 8039; 142 U.S.P.Q. 506 (T.T.A.B. 1964) (insignia of the National Park Service is registrable); *Liberty Mut. Ins. Co. v. Liberty Ins. Co. of Texas*, 185 F. Supp. 895, 908, 127 U.S.P.Q. 312, 323 (E.D. Ark. 1960) (“That the Statue of Liberty is not a part of the insignia of the United States’ is too clear to require discussion.”); and *U.S. Navy v. U.S. Mfg. Co*, *supra*.




A. Like the State’s flag and coat of arms, the State’s route marker design is unique to Michigan and signifies the State’s authority.

Under TMEP 1204.02(a), “flags and coats of arms are specific designs formally adopted to serve as emblems of governmental authority.” As explained *supra*, the State of Michigan’s state highway route marker design has been emblematic of governmental authority for nearly 100 years. Michigan’s sign design is unique and easily distinguishable from all other state highway marker designs used in the other 49 states. (Ex. 10.) It does not identify governmental agencies, persons, monuments, statues or buildings. Rather, the design represents the State’s authority over trunkline highways under its jurisdiction, as opposed to interstates, U.S. routes, and county routes. As explained above, the State’s authority is established under Michigan statutes that mandate compliance with the MUTCD and preclude altering the *insignia* on traffic devices. MCL 257.616. (Ex. 1.)

Accordingly, the State’s diamond design constitutes an insignia on par with the State’s flag or coat of arms and, therefore, is not eligible for registration as a trademark under the Lanham Act. See *In re U.S. Dept. of the Interior*, *supra* (overruling the examiner’s refusal to register the emblem of the National Park Service because the insignia is used to identify a service or facility of the government). Unlike the National Park Service insignia, the State’s route marker design does not represent an agency, department, or service, but rather denotes the State’s authority. Because the Marks at issue are virtually

identical to the State's route marker design, or a simulation at a bare minimum, the registrations must be canceled.

B. The Marks registered by Respondent are virtually identical to the State's route marker design.

Any attempt by Respondent to distinguish the Marks from the State's sign design in an effort to maintain the registrations is futile. Its own actions confirm that the Marks, i.e.,  and , are identical to the State's sign, e.g., , in every material respect. In fact, Respondent failed to dispute the Examiner's finding that the Marks are used in "exactly" the way the State uses the road signs for its highway, i.e. as an indication of authority to regulate, warn, and guide travelers. (Serial No. 85041051.) On its Facebook page, Respondent admits that the "M22 road sign" is protected as a trademark. (Ex. 25.)

Respondent purports to have made "creative" modifications to the State's sign. However, by its own admission, Respondent's "creativity" is limited to a white border, imperceptibly thicker letters within and rounder corners on the diamond, and the addition of "M22ONLINE.COM" below the State's sign. However, the allegedly "creative" white border around the sign in the Marks is the same as the border that appears on signs erected along Michigan's roads. See Ex. 23, p. 2 and Ex. 26. Moreover, a white border added to the sign to set it apart from the dark color of a t-shirt is not even remotely creative. Clearly, Respondent's creativity is as indiscernible as the thickness changes and rounded corners that it self-servingly claims make the Marks readily distinguishable from the State's sign design. In fact, Respondent has admitted that its feigned "creative" differences are of no moment by threatening to sue those who duplicate the State's sign on grounds that such signs, including the M-22 sign, i.e., without thickness changes and rounded corners, are identical to and infringe the unlawfully registered Marks. (Exs. 35-44.) For example, Respondent threatened to sue users of the State's sign with M-25, M-26,

M-28, M-37, and M-119 in the diamond, on the basis that each applicant's mark was "identical" to the Marks at issue here. (Exs. 35-44.)

Respondent cannot have it both ways. Its admission that third party uses of the State's sign infringe and are confusingly similar to the Marks constitutes an admission by Respondent that the Marks are not creatively different from the sign. Moreover, Respondent has admitted that identicalness of its Marks to the State's sign is not required, especially where the "substantial and distinctive portion" of the State's sign are copied. (Exs. 36 and 37.)

C. The Marks need not be identical to be barred from registration; at a minimum, they are simulations of the State's insignia and, therefore, precluded from registration.

Section 2(b) of the Lanham Act bars registration of marks that "consist of or comprise any simulation of such symbols." *In re Peter S. Herrick, P.A.*, 2009 WL 174898, *5; 91 U.S.P.Q.2d 1505 (T.T.A.B. 2009). As set forth in Section 2(b), marks must be refused trademark registration where it "consists of or comprises . . . other insignia . . . or any simulation thereof." "The word 'simulation' in the context of Section 2(b) is used in its usual and generally understood meaning, namely, 'an assumption or imitation of a particular appearance or form.'" *Id.* (finding the Department of the Treasury seal represented the authority of the government, and registration of a mark constituting a simulation of the seal was prohibited under Section 2(b)):

The determination of whether applicant's mark is a simulation of an insignia of the United States is made "without a careful analysis and side-by-side comparison" with the government insignia because "purchasers normally retain but a general or overall rather than a specific recollection of the various elements or characteristics of design marks."

In re Peter S. Herrick, P.A., at 5 (citations omitted) (in comparing the applicant's mark to the government seal at issue, with the exception of the words "U.S. Customs Service" in place of "The Department of the Treasury," the challenged mark was identical to the seal,

and “the average person upon seeing applicant’s mark would associate it with the Department of Treasury seal.” Therefore, because the applicant’s mark was not readily distinguishable from the Department of Treasury seal, it “consists of or comprises a simulation of an insignia of the United States, thereby prohibiting registration.”) See also *In re Waltham Watch Co.*, 1973 WL 19968; 179 U.S.P.Q. 59 (T.T.A.B. 1973) (stating that whether a mark comprises a simulation must be determined from a visual comparison of the proposed mark vis-à-vis replicas of the flag, coat of arms, or other insignia in question); *In re Advance Indus. Sec., Inc.*, 1977 WL 22511; 194 U.S.P.Q. 344 (T.T.A.B. 1977) (explaining that, in deciding whether a mark is a simulation, the focus must be on the general recollection of the flag or insignia by purchasers, “without a careful analysis and side-by-side comparison.”)

Clearly, any notion that the Marks must be identical to the State’s highway route marker, or that identicalness must be determined by a careful analysis and side-by-side comparison to determine whether they are readily distinguishable, is misguided because purchasers retain only an *overall* recollection of design marks. Here, as explained *supra*, Respondent’s own actions confirm that the Marks are identical or, at a minimum, simulations that imitate the appearance and form of the State’s road sign design.

D. Summary disposition in favor of the State under 15 U.S.C. 1052(b) is warranted.

As explained *supra*, the State’s highway route marker design was formally adopted in accordance with state and federal law to serve as an emblem of governmental authority. The route marker sign represents the authority of the State, rather than a county, city, or other municipality. It is not an emblem used to identify a service, facility, or department of the State. See *In re Peter S. Herrick, P.A.*, *supra*; see also *Heroes, Inc. v. Boomer Esiason Hero’s Foundation, Inc.*, 1997 WL 335807; 43 U.S.P.Q.2d 1193 (D.D.C. 1997) (finding no

evidence that the United States Capitol building was “formally adopted to serve as an emblem of governmental authority” and thus, a depiction of the building was not an insignia prohibited from being registered as a trademark). A visual comparison of the Marks with the State’s design leaves no room for doubt that the Marks are identical to or, minimally, simulations of the State’s design, as evidenced by the same white diamond on a black square with a stylized “M” in the top corner of the diamond and a stylized “22” in the bottom corner of the diamond. In fact, the Trademark Examiner reached this same conclusion, which Respondent failed to dispute.

Respondent cannot deny that the Marks are simulations, if not identical, given its threats to sue anyone who uses the State’s route marker design, with any number below the stylized “M,” on grounds of trademark infringement and likelihood of confusion. (Exs. 35-44.) Comments on Respondent’s Facebook page, by Respondent and others, confirm that the public associates the Marks with the State and its route marker design. (Exs. 17-22.) Such was Respondent’s intent, as it has admitted that it intended to replicate the State’s route marker design because it has been widely recognized and respected for decades. (Exs. 16-18.)

Federal and state laws establish the authority accorded to the State and emblemized in the trunkline highway route marker design used continuously for nearly a century. Long before Respondent put the route marker design on a t-shirt and other novelty items to espouse a common passion for the road and region in Northwest Michigan, and then commandeered the design as to all Michigan trunkline highways, the State’s distinctive design was and remains widely known and instantly recognized as an insignia of the State and its authority over trunkline routes throughout the State. Accordingly, the trunkline route marker design constitutes an insignia of governmental authority that is barred from

trademark registration under 15 U.S.C. § 1052(b). Consequently, the trademark registrations issued for the Marks must be canceled.

II. The Marks consist of elements and symbols indicative of and used by the State of Michigan, and falsely suggest a connection with the State of Michigan, thereby precluding registration under 15 U.S.C. § 1052(a).

Section 2(a) of the Lanham Act prohibits registration on either the Principal or Supplemental Register if the mark “consists of or comprises . . . matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs or national symbols, or bring them into contempt or disrepute.” 15 U.S.C. § 1052(a); *In re Brumberger Co., Inc.*, 1978 WL 21556, *2; 200 U.S.P.Q. 475 (T.T.A.B. 1978) (affirming the refusal to register a pictorial representation of an exact replica of an official United States mail depository box, including the word “MAIL,” the official eagle design and the words “U.S. Mail” as used by the U.S. Postal Service).


The protection afforded under Section 2(a) is intended to preclude the unauthorized use of the persona or symbol of an institution. *Bridgestone/Firestone Research Inc. v. Auto. Club De L’Quest De La France*, 245 F.3d 1359, 11363; 58 U.S.P.Q.2d 1460 (Fed. Cir. 2001); TMEP § 1203.03. A party acquires a protectable interest in such a designation that is “unmistakably associated with, and points uniquely to, that party’s persona,” and does not depend on adoption and use of the designation as a technical trademark or tradename. *Univ. of Notre Dame du Lac v. J.C. Gourmet Food Imports, Co., Inc.*, 703 F.2d 1372, 1375-1377; 217 U.S.P.Q. 505 (Fed. Cir. 1983); *Buffett v. Chi-Chi’s, Inc.*, 1985 WL 73060, *2; 226 U.S.P.Q. 428 (T.T.A.B. 1985).

A. The State is an “institution,” for purposes of Section 2(a), and a prior user with a protectable interest in its trunkline route marker design.

There can be no reasonable dispute that the State is an “institution” for purposes of Section 2(a). See *In re Peter S. Herrick P.A.*, 91 U.S.P.Q.2d at 1506 (under Section 2(a),

“institutions” include government agencies and instrumentalities); *Gavel Club v. Toastmasters Int’l*, 127 U.S.P.Q. 88, 94 (T.T.A.B. 1960) (institutions do not need to be “national” to be protected from the registration of a mark that falsely suggests a connection with them). Nor can Respondent reasonably dispute that the State, given its use of the diamond route marker design for nearly 100 years, including more than 40 years using the current design adopted in 1973, is the prior user of its trunkline route marker design. *In re Mohawk Air Servs. Inc.*, 196 U.S.P.Q. 851, 854-55 (T.T.A.B. 1977) (a refusal based on false suggestion of a connection requires that the institution be the prior user of the name or design).

Further, although Respondent has alleged that the State has not used the route marker design as a trademark, which the State disputes, the State is not required to have ever commercially exploited the design or used it in a manner analogous with trademark use. *In re Pedersen*, 2013 WL 6926518, *7; 109 U.S.P.Q.2d 1185 (T.T.A.B. 2013). False suggestion of a connection exists because the State’s right to control the use of its route marker design is violated as a result of the Marks being registered, even in circumstances where the State may have no authority to authorize use of the design. *Id.*

Thus, as explained above, the State has acquired a protectable interest in its trunkline route marker design. Its design has become “unmistakably associated with, and points uniquely to” the State of Michigan, including regions such as Northwest Michigan that, based on geographical appeal, have become widely known by the scenic trunkline route marker, e.g., , erected on roads passing through them.

B. The Marks falsely suggest a connection with the State of Michigan.

“A false suggestion of a connection may be found when one’s right to control the use of its identity is violated, even if the name claimed to be appropriated was never commercially exploited as a trademark or in a manner analogous to trademark use.” *In re*

Pedersen, supra at *7. As explained by the Federal Circuit in *The University of Notre Dame du Lac v. J.C. Gourmet Food Imports, Co., Inc., supra*, “the drafters of the Lanham Act were concerned with protecting the name of an individual or institution which was not a technical trademark or trade name upon which an objection under 2(d) could be made.” *In re Cotter & Co.*, 1985 WL 71963, *1; 228 U.S.P.Q. 202 (T.T.A.B. 1985). The Court further explained that the drafters sought by Section 2(a) to embrace concepts of the right to privacy, that the elements of a claim on invasion of privacy have emerged as distinctly different from those of trademark” and “while there may be no likelihood of source confusion even under a theory of ‘sponsorship’ or ‘endorsement,’ one’s right of privacy or the related right of publicity may be violated.” *Id.* Under this concept of identity protection, the critical requirement is that the State’s sign design, as appropriated by Respondent, is unmistakably associated with the State of Michigan. *Id.*

The test for whether a mark comprises matter that may falsely suggest a connection with an institution is explained in *In re Cotter & Co., supra* (refusing registration of WESTPOINT for firearms because the mark falsely suggested a connection with the U.S. Military Academy). The four-factor test requires a showing that:

1. The mark is the same as, or a close approximation of, the name or identity previously used by another person or institution;
2. The mark would be recognized as such, in that it points uniquely and unmistakably to that person or institution;
3. The person or institution named by the mark is not connected with the activities performed by the applicant under the mark; and
4. The fame or reputation of the person or institution is such that, when the mark is used with the applicant’s goods or services, a connection with the person or institution would be presumed.

Id. at *2; see also *In re Pedersen, supra* at *2 (refusing to register LAKOTA because the mark as used by the applicant falsely suggested a connection with persons or institutions known as the Lakota).

In this case, with regard to the first and third factors, as explained *supra*, the irrefutable facts in this case establish that the Marks are virtually identical to the State's route marker design, and Respondent has conceded as much. Further, the parties do not dispute that the State is not connected with Respondent's sale of novelty items bearing the State's route marker design.


Regarding the second factor, the requirement that the Marks would be recognized as pointing uniquely and unmistakably to the State asks whether consumers of Respondent's products would view the mark as pointing uniquely to the State or perceive it to have another meaning. *Hornby v. Tjx Cos., Inc.*, 2008 WL 1808555, *16; 87 U.S.P.Q.2d 1411 (T.T.A.B. 2008) (canceling the mark TWIGGY on children's clothing because it would be recognized as pointing uniquely and unmistakably to the petitioner, a recognized and famous British model, and because consumers would presume an association with the model); *In re Pedersen, supra* at *9-*11. Notably, Respondent's use of the State's trunkline sign design does not establish that the term points uniquely to Respondent. *Hornby, supra* at *16 (finding third party registration of the mark "TWIGGY" on goods unrelated to children's clothing to have "no probative value"); *In re Pedersen, supra* at *10-*11 (finding consumer exposure to third party use of LAKOTA on products and services unrelated to the applicant's insufficient to show that the applicant's use of LAKOTA does not point uniquely to the Lakota people).

That M-22 is nationally known and recognized as pointing uniquely and unmistakably to the State is incontestable. In fact, during prosecution, Respondent conceded that it uses the Marks in exactly the way the State uses 'M22' in its road signs.

Furthermore, the State's consistent use of the route marker design over the last 100 years, its use in connection with Great Lakes Circle Tours, Scenic Heritage Routes, and numerous campaigns to market and develop tourism in Northwest Michigan and throughout the State, there can be no reasonable dispute that the route marker design points uniquely and unmistakably to the State. (Exs. 23-34) Most recently, in 2015, the M-22 route, denoted by the State's route sign design, was named by USA Today as the "#1 Best Scenic Autumn Drive in the Nation" based on a month-long poll of USA Today readers. (Ex. 15.) In addition, Statements by Respondent and its customers and supporters, overwhelmingly demonstrate their clear and unmistakable recognition that the design points uniquely to the State, confirm as much. (Exs. 17-22.)

Respondent's intent to identify the State or trade on its goodwill is not a required element of a Section 2(a) claim of false suggestion of an association. *S&L Acquisition Co. v. Helene Arpels, Inc.*, 9 U.S.P.Q.2d 1221, 1224 (T.T.A.B. 1987); *Univ. of Notre Dame du Lac*, 703 F.2d at 1377. Nevertheless, Respondent's unequivocal statements associating the Marks with the State, on Respondent's website and Facebook page, as well as in interviews, make clear its intent to draw a connection to the State. Respondent's statements constitute admissions of suggested association, and those of its customers evidence the public's false association. Without question, Respondent's incorporation into and use of the State's trunkline sign in the Marks is further evidence that it intended to reference the State. *See Bd. Of Trustees of Univ. of Ala. v. Pitts*, 2013 WL 4397047; 107 U.S.P.Q.2d 2001 (T.T.A.B. 2013) (because the applicants did not use the exact image in their mark, their admission that they intended the mark to reference the person was diminished).

As to the fourth prong – the likelihood of a presumed connection between the goods and the State – the issue is whether the fame of Michigan vis-à-vis its route marker design is significant enough that a connection between the State and the Marks is presumed. *In re*

Pedersen, supra at *15. However, the State is not required to prove that its reputation is closely related to Respondent’s goods. *Id.* Here, the undisputed facts leave no room for doubt that the State is well-known with Michiganders, including Respondent and its founders and customers, and others around the country, for its wildly popular scenic regions, tours, and routes commonly known by reference to the State’s route sign design, e.g., . (Exs. 17-22.) As the applicant in *Pedersen* intended to identify with Native Americans in general, and the Lakota people in particular, here Respondent’s conduct and statements confirm that it intended to identify with the State, in general, and Northwest Michigan, in particular, by its use of the State’s road sign design and the M-22 route number. *Id.* at 18. In fact, when others have used the State’s route marker in connection with the region, Respondent has stopped them in their tracks with threats of claims under the Lanham Act. (Exs. 35-44.) Notably, in one such threat, Respondent again conceded that the Marks refer to the State, admitting it “created the M22 brand to pay tribute to the northern Michigan road of the same name and the natural beauty of its surrounding areas.” (Ex. 28.)

Respondent adopted the State’s route sign design to trade on the goodwill and publicity that the design has acquired over the past century as a result of its association with the State. Because Respondent adopted the Marks with the intent of communicating a shared love of Northwest Michigan, it is axiomatic that, when the Marks are used with the Respondent’s goods or services, a connection with the State is presumed. This connection is unmistakable based on Respondent’s use of the Marks in “exactly” the same way the State uses the signs, and Respondent’s statements, as well as statements by its customers, that the Marks point uniquely to the State and express a “common passion” for the State, the road, and the region. Indeed, there can be no other reason for Respondent’s using the State’s sign design and route number except to draw the connection to the State and the

popularity of the scenic tourist region, and to sell novelty items that display a love for the State and the region. *See Pedersen* at *18. *See also Bd. of Tr. of Univ. of Ala. v. BAMA-Werke Curt Baumann*, 1986 WL 83709; 231 U.S.P.Q. 408 (T.T.A.B. 1986) (finding that BAMA points uniquely to the University of Alabama and, therefore, falsely suggests a connection with the University, and canceling the registration of BAMA, for shoes, slippers, stockings, socks, and insoles); *In re Sloppy Joe's Int'l Inc.*, 1997 WL 424966; 43 U.S.P.Q.2d 1350 (T.T.A.B. 1997) (denying registration because use of the mark SLOPPY JOE'S with a design that includes the portrait of Ernest Hemingway falsely suggests a connection with deceased writer.)

Clearly, there is no genuine issue of material fact that the four elements of the false suggestion of a connection test have been met. Thus, summary judgment in favor of the State is warranted and the Marks should be canceled.

RELIEF REQUESTED

The State's route marker design is an insignia that denotes governmental authority over trunklines throughout the State. Such governmental insignia are ineligible for trademark registration. Furthermore, the Marks falsely suggest a connection with the State and are barred from registration. Accordingly, the State respectfully requests that this Board grant its Motion for Partial Summary Judgment and cancel the registrations at issue.

Respectfully submitted,

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Date: March 18, 2016

PROOF OF SERVICE

I, Susan Lubitz, legal secretary to Assistant Attorney General Toni L. Harris, certify that on March 18, 2016, I served a true and correct copy of Petitioner's Combined Motion for Partial Summary Judgment and Brief in Support, in electronic format, on Respondent's counsel of record.

/s/ Susan Lubitz
Susan Lubitz

Exhibit 1 to MDOT's MSJ

MICHIGAN VEHICLE CODE (EXCERPT)
Act 300 of 1949

TRAFFIC SIGNS, SIGNALS, AND MARKINGS

257.608 Uniform system of traffic-control devices; manual.

Sec. 608. The state highway commissioner and commissioner of state police shall adopt a manual and specifications for a uniform system of traffic-control devices consistent with the provisions of this chapter for use upon highways within this state. Such uniform system shall correlate with and so far as possible conform to the system then current as approved by the American Association of State Highway Officials and such manual may be revised whenever necessary to carry out the provisions of this act. It is hereby declared to be the policy of the state of Michigan to achieve, insofar as is practicable, uniformity in the design, and shape and color scheme of traffic signs, signals and guide posts erected and maintained upon the streets and highways within the state with other states.

History: 1949, Act 300, Eff. Sept. 23, 1949.

257.609 Traffic-control devices; placement and maintenance; restrictions; county road commission, permission, costs.

Sec. 609. (a) The state highway commission shall place or require to be placed and maintain or require to be maintained such traffic-control devices, conforming to said manual and specifications, upon all state highways as it shall deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn or guide traffic.

(b) No local authority shall place or maintain any traffic-control device upon any trunk line highway under the jurisdiction of the state highway commissioner except by the latter's permission or upon any county road without the permission of the county road commission having jurisdiction thereof. With the approval of the department of state highways, the board of county road commissioners of any county, at its option, may install and maintain uniform traffic-control devices according to the standards promulgated by the department of state highways and as required by the commission on trunk line highways, if the cost would be less than that estimated by the state highway commission, billing the state highway commission for its share of the cost of installation.

History: 1949, Act 300, Eff. Sept. 23, 1949;—Am. 1953, Act 76, Eff. Oct. 2, 1953;—Am. 1968, Act 98, Imd. Eff. June 7, 1968.

257.610 Traffic control devices; placement and maintenance by local authorities and county road commissions; compliance with state manual and specifications; noncompliance with statutory provisions; sale, purchase, or manufacture of devices.

Sec. 610. (a) Local authorities and county road commissions in their respective jurisdictions shall place and maintain such traffic control devices upon highways under their jurisdiction as they may deem necessary to indicate and to carry out the provisions of this chapter or local traffic ordinances or to regulate, warn or guide traffic. All such traffic control devices hereafter erected shall conform to the state manual and specifications.

(b) The state highway commissioner shall withhold from any township, incorporated village, city or county, failing to comply with the provisions of sections 608, 609, 612 and 613, the share of weight and gasoline tax refunds otherwise due the township, incorporated village, city or county. Notice of such failure, and a reasonable time to comply therewith, shall first be given.

(c) A person, firm or corporation shall not sell or offer for sale to local authorities and local authorities shall not purchase or manufacture any traffic control device which does not conform to the Michigan manual of uniform traffic control devices except by permission of the director of the department of state highways.

History: 1949, Act 300, Eff. Sept. 23, 1949;—Am. 1955, Act 245, Eff. Oct. 14, 1955;—Am. 1972, Act 72, Imd. Eff. Mar. 9, 1972.

257.611 Traffic control devices; obedience required; exception; avoiding obedience by driving on public or private property; violation as civil infraction.

Sec. 611. (1) The driver of a vehicle or operator of a streetcar shall not disobey the instructions of a traffic control device placed in accordance with this chapter unless at the time otherwise directed by a police officer.

(2) The driver of a vehicle shall not, for the purpose of avoiding obedience to a traffic control device placed in accordance with this chapter, drive upon or through private property, or upon or through public property which is not a street or highway.

(3) A person who violates this section is responsible for a civil infraction.

History: 1949, Act 300, Eff. Sept. 23, 1949;—Am. 1976, Act 75, Imd. Eff. Apr. 11, 1976;—Am. 1978, Act 510, Eff. Aug. 1, 1979.

257.611a Direction of traffic in work zone; conditions; failure to comply; violation as civil infraction.

Sec. 611a. (1) An owner or employee of an entity performing construction, maintenance, surveying, or utility work within a work zone may direct traffic within that work zone if both of the following apply:

(a) The department of transportation, the local authority, or the county road commission, within its respective jurisdiction, authorizes that owner or employee to direct traffic due to safety or work requirements. The authorization shall be issued in the manner considered appropriate by the department of transportation, the local authority, or the county road commission, and may be general or specific. The authorization may establish the conditions under which the owner or employee may direct traffic, and may allow the owner or employee to direct traffic in disregard of an existing traffic control device.

(b) The owner or employee is properly trained, equipped, and attired in conformance with the manual of uniform traffic control devices authorized under section 608.

(2) The operator of a motor vehicle who fails to comply with the directions of an owner or employee directing traffic under this section, including a direction made in disregard of an existing traffic control device, is responsible for a civil infraction.

History: Add. 2008, Act 298, Imd. Eff. Oct. 8, 2008.

257.612 Traffic control signals; location; red arrow and yellow arrow indications; colors; traffic control signal at place other than intersection; stopping at sign, marking, or signal; violation of subsection (1) or (2) as civil infraction; approaching person using wheelchair or device to aid walking; violation of subsection (4) as misdemeanor; location of sign prohibiting turn on red signal; additional sign; location of temporary traffic control signal.

Sec. 612. (1) When traffic is controlled by traffic control signals, not fewer than 1 signal shall be located over the traveled portion of the roadway so as to give vehicle operators a clear indication of the right-of-way assignment from their normal positions approaching the intersection. The vehicle signals shall exhibit different colored lights successively, 1 at a time, or with arrows. Red arrow and yellow arrow indications have the same meaning as the corresponding circular indications, except that they apply only to vehicle operators intending to make the movement indicated by the arrow. The following colors shall be used, and the terms and lights shall indicate and apply to vehicle operators as follows:

(a) If the signal exhibits a green indication, vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at that place prohibits either turn. Vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians and bicyclists lawfully within the intersection or an adjacent crosswalk at the time the signal is exhibited.

(b) If the signal exhibits a steady yellow indication, vehicular traffic facing the signal shall stop before entering the nearest crosswalk at the intersection or at a limit line when marked, but if the stop cannot be made in safety, a vehicle may be driven cautiously through the intersection.

(c) If the signal exhibits a steady red indication, the following apply:

(i) Vehicular traffic facing a steady red signal alone shall stop before entering the crosswalk on the near side of the intersection or at a limit line when marked or, if there is no crosswalk or limit line, before entering the intersection and shall remain standing until a green indication is shown, except as provided in subparagraph (ii).

(ii) Vehicular traffic facing a steady red signal, after stopping before entering the crosswalk on the near side of the intersection or at a limit line when marked or, if there is no crosswalk or limit line, before entering the intersection, may make a right turn from a 1-way or 2-way street into a 2-way street or into a 1-way street carrying traffic in the direction of the right turn or may make a left turn from a 1-way or 2-way street into a 1-way roadway carrying traffic in the direction of the left turn, unless prohibited by sign, signal, marking, light, or other traffic control device. The vehicular traffic shall yield the right of way to pedestrians and bicyclists lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(d) If the signal exhibits a steady green arrow indication, vehicular traffic facing the green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by the arrow or other movement permitted by other indications shown at the same time. The vehicular traffic shall yield the right-of-way to pedestrians and bicyclists lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(2) If a traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section apply except for those provisions that by their nature cannot apply. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of a sign or marking, the stop shall be made at the signal.

(3) A person who violates subsection (1) or (2) is responsible for a civil infraction.

(4) A vehicle operator who approaches a person using a wheelchair or a device to aid the person to walk at a crosswalk or any other pedestrian crossing shall take necessary precautions to avoid accident or injury to the person using the wheelchair or device. A person who violates this subsection is guilty of a misdemeanor.

(5) A sign prohibiting a turn on a red signal as provided in subsection (1)(c)(ii) shall be located above or adjacent to the traffic control signal or as close as possible to the point where the turn is made, or at both locations, so that 1 or more of the signs are visible to a vehicle operator intending to turn, at the point where the turn is made. An additional sign may be used at the far side of the intersection in the direct line of vision of the turning vehicle operator.

(6) Subject to federal law, a temporary traffic control signal may be located on, over, or adjacent to the traveled portion of the roadway.

History: 1949, Act 300, Eff. Sept. 23, 1949;—Am. 1955, Act 245, Eff. Oct. 14, 1955;—Am. 1964, Act 222, Eff. Aug. 28, 1964;—Am. 1966, Act 237, Eff. Mar. 10, 1967;—Am. 1975, Act 287, Eff. Mar. 31, 1976;—Am. 1978, Act 510, Eff. Aug. 1, 1979;—Am. 1988, Act 105, Eff. July 31, 1988;—Am. 1990, Act 33, Eff. Apr. 1, 1991;—Am. 2006, Act 339, Imd. Eff. Aug. 15, 2006;—Am. 2014, Act 386, Imd. Eff. Dec. 18, 2014.

257.613 Applicability of regular traffic control signals to pedestrians; special pedestrian control signals; violation as civil infraction.

Sec. 613. (1) If special pedestrian control signals are not utilized, the regular traffic control signals as indicated in section 612 shall apply to pedestrians as follows:

(a) Green indication. Pedestrians facing the signal may proceed across the roadway within a marked or unmarked crosswalk.

(b) Steady yellow indication. Pedestrians facing the signal are advised that there is insufficient time to cross the roadway and a pedestrian then starting to cross shall yield the right of way to all vehicles.

(c) Steady red indication. Pedestrians facing the signal shall not enter the highway unless they can do so safely and without interfering with vehicular traffic.

(d) Red with arrow. Pedestrians facing the signal shall not enter the highway unless they can do so safely without interfering with vehicular traffic.

(2) If special pedestrian control signals are installed, they shall be placed at the far end of each crosswalk and shall indicate a “walk” or “don't walk” interval. These special signals shall apply to pedestrians only to the exclusion of a regular traffic control signal or signals which may be present at the same location, as follows:

(a) Walk interval—Pedestrians facing the signal may proceed across the highway in the direction of the signal and shall be given the right of way by the drivers of all vehicles.

(b) Don't walk (steady burning or flashing) interval—A pedestrian shall not start to cross the highway in the direction of the signals, but a pedestrian who has partially completed crossing on the walk interval of the signal shall proceed to a sidewalk or safety island while the don't walk interval of the signal is showing.

(3) A person who violates this section is responsible for a civil infraction.

History: 1949, Act 300, Eff. Sept. 23, 1949;—Am. 1955, Act 245, Eff. Oct. 14, 1955;—Am. 1956, Act 71, Eff. Aug. 11, 1956;—Am. 1964, Act 222, Eff. Aug. 28, 1964;—Am. 1966, Act 237, Eff. Mar. 10, 1967;—Am. 1978, Act 510, Eff. Aug. 1, 1979.

257.613a School crossings; establishment; basis; determination; notice; erection of school crossing signs.

Sec. 613a. (1) Except as provided in subsections (2) and (3), the state transportation department, a county road commission, or a local authority shall establish school crossings considered necessary for the safety of schoolchildren on streets and highways under its jurisdiction. The establishment of a school crossing shall be based upon a traffic and engineering study conducted by the authority having jurisdiction, in consultation with the superintendent of the school district.

(2) If considered necessary under subsection (1) or pursuant to a traffic and engineering study conducted under subsection (4), a school crossing shall be established within a safe distance from a school located on a street or highway on which the speed limit is 25 miles or more per hour.

(3) Upon request of the superintendent of the school district, the following individuals shall meet at not less than 5-year intervals to consider whether a traffic and engineering study should be conducted to determine whether a school crossing is required under subsection (2):

(a) The superintendent of the school district in which the school is located or his or her designee.

(b) The head of the local authority having jurisdiction to maintain the road or his or her designee or, if there is no local authority, an individual designated by the director of the state transportation department.

(c) The chief of police of the local unit of government in which the road is located or his or her designee

or, if the local unit of government does not have a police department, the county sheriff or his or her designee.

(4) If the individuals described in subsection (3) determine by unanimous vote that a traffic and engineering study should be conducted, the individuals shall notify the authority having jurisdiction to maintain the road in writing of that determination. If the authority is notified under this subsection that a traffic and engineering study should be conducted, the authority shall conduct the study.

(5) Having established a school crossing, the state transportation department, county road commission, or local authority shall erect school crossing signs, in conformance with the manual of uniform traffic control devices provided for in section 608, on streets or highways under its jurisdiction.

History: Add. 1978, Act 227, Imd. Eff. June 14, 1978;—Am. 2004, Act 201, Imd. Eff. July 13, 2004.

Popular name: The Jasmine Miles Schoolchildren Safety Act

257.613b School crossing guard; stationing; time period; color and design of outer vest; stopping vehicular traffic with hand held stop sign; authority.

Sec. 613b. (1) When assigned, a school crossing guard shall be stationed at a school crossing during time periods established jointly by the superintendent of the school district and the head of the law enforcement agency having immediate jurisdiction.

(2) While on duty, a school crossing guard shall wear an outer vest of a color and design which conforms with the standards of the manual of uniform traffic control devices provided for in section 608.

(3) A school crossing guard while on duty at a school crossing shall when necessary stop vehicular traffic. This shall be done by use of a hand held stop sign which conforms to the standards for the sign in the manual of uniform traffic control devices or as approved by the department of state highways and transportation. School crossing guards shall have the authority only at their assigned crossings and only during their assigned duty times.

History: Add. 1978, Act 227, Imd. Eff. June 14, 1978.

257.613c School crossing guard; responsibility of local law enforcement agency; instruction required; approval and conduct of courses.

Sec. 613c. (1) School crossing guards shall be the responsibility of the local law enforcement agency having immediate jurisdiction of the crossing.

(2) A person shall receive a minimum of 4 hours instruction before performing the duties of a school crossing guard. Two hours of additional instruction shall be given annually to a school crossing guard before the beginning of each school year. The courses of instruction shall be approved by the department of education and the department of state police and conducted by the local law enforcement agency having jurisdiction or its designee.

History: Add. 1978, Act 227, Imd. Eff. June 14, 1978.

257.613d Failure to stop for school crossing guard holding stop sign in upright position; misdemeanor; presumption.

Sec. 613d. (1) A driver of a motor vehicle who fails to stop when a school crossing guard is in a school crossing and is holding a stop sign in an upright position visible to approaching vehicular traffic is guilty of a misdemeanor.

(2) In a proceeding for a violation of this section, proof that the particular vehicle described in the citation, complaint, or warrant was used in the violation, together with proof that the defendant named in the citation complaint or warrant was the registered owner of the vehicle at the time of the violation, constitutes in evidence a presumption that the registered owner of the vehicle was the driver of the vehicle at the time of the violation.

History: Add. 1978, Act 227, Imd. Eff. June 14, 1978.

257.614 Flashing red or yellow signals; violation as civil infraction.

Sec. 614. (1) If flashing red or yellow signals are used, they shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated by rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past the signal only with caution.

(2) A person who violates this section is responsible for a civil infraction.

History: 1949, Act 300, Eff. Sept. 23, 1949;—Am. 1978, Act 510, Eff. Aug. 1, 1979.

257.615 Signs or lights resembling traffic-control devices or emergency vehicles; commercial advertising on traffic signs; prohibition; public nuisance; removal; placement of street decorations and banners.

Sec. 615. (a) Except with authority of a statute or of a duly authorized public body or official, no person shall place, maintain, or display along any highway or upon any structure in or over any highway any sign, signal, marking, device, blinking, oscillating or rotating light or lights, decoration or banner which is or purports to be or is in imitation of or resembles or which can be mistaken for a traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any traffic control device or any railroad sign or signal, and no person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising.

(b) No person shall place, maintain or display along any highway any blinking, oscillating or rotating light or lights sufficiently similar in color and design that they may be mistaken for the distinguishing lights authorized by law for emergency vehicles or that creates a hazard for the safety of drivers using said highways.

(c) Every such prohibited sign, signal, marking, device, decoration or banner is hereby declared to be a public nuisance and the authority having jurisdiction over the highway is hereby empowered to remove the same or cause to be removed without notice.

(d) Decorations or banners which may be placed over the traveled portion of any street or highway shall be placed not closer than 10 feet on either side of traffic lights or signals and shall be so placed as to not obstruct a clear view of such traffic lights or signals.

History: 1949, Act 300, Eff. Sept. 23, 1949;—Am. 1955, Act 245, Eff. Oct. 14, 1955;—Am. 1957, Act 112, Eff. Sept. 27, 1957;—Am. 1958, Act 98, Eff. Sept. 13, 1958.

257.616 Traffic-control devices or railroad signs or signals; interference prohibited.

Sec. 616. No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down, or remove any traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof.

History: 1949, Act 300, Eff. Sept. 23, 1949.

257.616a Portable signal preemptive device; prohibitions; penalties; exceptions; definitions.

Sec. 616a. (1) Except as provided in subsections (3) and (4), a person shall not do any of the following:

- (a) Possess a portable signal preemption device.
- (b) Use a portable signal preemption device.
- (c) Sell a portable signal preemption device to a person other than a person described in subsection (3).
- (d) Purchase a portable signal preemption device for use other than a duty as described in subsections (3) and (4).

(2) A person who violates subsection (1) is guilty of a crime as follows:

(a) A person who violates subsection (1)(a) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$5,000.00, or both.

(b) Except as provided in subdivisions (c), (d), and (e), a person who violates subsection (1)(b) is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$10,000.00, or both.

(c) A person who violates subsection (1)(b), which violation results in a traffic accident, is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$15,000.00, or both.

(d) A person who violates subsection (1)(b), which violation results in the serious impairment of a body function, is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$20,000.00, or both.

(e) A person who violates subsection (1)(b), which violation results in the death of another, is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$25,000.00, or both.

(f) A person who violates subsection (1)(c) or (d) is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$10,000.00, or both.

(3) This section does not apply to any of the following:

- (a) A law enforcement agency in the course of providing law enforcement services.
- (b) A fire station or a firefighter in the course of providing fire prevention or fire extinguishing services.
- (c) An emergency medical service or ambulance in the course of providing emergency medical transportation or ambulance services.
- (d) An operator, passenger, or owner of an authorized emergency vehicle in the course of his or her

emergency duties.

(4) Subsection (1)(a) does not apply to either of the following:

(a) A mail or package delivery service or employee or agent of a mail or package delivery service in the course of shipping or delivering a portable signal preemption device.

(b) An employee or agent of a portable signal preemption device manufacturer or retailer in the course of his or her employment in providing, selling, manufacturing, or transporting a portable signal preemption device to an individual or agency described in this subsection.

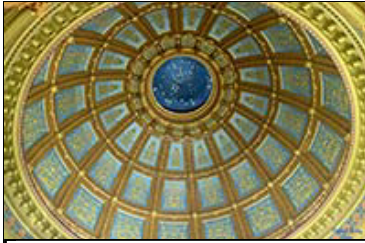
(5) As used in this section:

(a) "Portable signal preemption device" means a device that, if activated by a person, is capable of changing a traffic control signal to green out of sequence.

(b) "Serious impairment of a body function" means that term as defined in section 58c.

History: Add. 2004, Act 25, Eff. June 14, 2004.

Exhibit 2 to MDOT's MSJ



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MICHIGAN VEHICLE CODE (EXCERPT) Act 300 of 1949

257.70 "Traffic control devices" defined.

Sec. 70.

"Traffic control devices" means all signs, signals, markings, and devices not inconsistent with this act placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

History: 1949, Act 300, Eff. Sept. 23, 1949

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Exhibit 3 to MDOT's MSJ

127 Mich.App. 324
Court of Appeals of Michigan.

Paul GORELICK, Plaintiff-Appellee, Cross-Appellee,

v.

DEPARTMENT OF STATE HIGHWAYS,
Defendant-Appellant, Cross-Appellant.

Docket No. 56566.

Submitted Jan. 6, 1983.

Decided July 19, 1983.

Released for Publication Oct. 19, 1983.

Passenger injured in automobile accident brought action against state, alleging that injuries were caused by misplaced "pass with care" sign. The Court of Claims, Stanley Everett, J., entered judgment for passenger, but reduced damages award of \$2,100,000, to account for several factors, and state appealed and passenger cross-appealed. The Court of Appeals, Bronson, J., held that: (1) state had duty to ensure proper placement of "pass with care" sign; (2) accident was natural, probable and foreseeable consequence of state's misplacing its sign; (3) factual findings as to credibility of witnesses were neither incomplete nor clearly erroneous; (4) assuming arguendo that other driver pulled into passing lane in advance of sign, action did not break causal link between state's negligence and passenger's injuries; (5) neither court's viewing scene of accident nor admitting motion picture simulating accident was error; (6) evidence supported finding that passenger suffered aggravation of his preexisting multiple sclerosis as result of accident; and (7) reductions of award based upon other driver's percentage of responsibility for accident, income taxes which might have to be paid on lost future earnings, and failure to apply collateral source rule were error.

Affirmed as modified; remanded.

West Headnotes (24)

[1] **Automobiles**

🔑 Places to Which Liability Extends

Statutory term "improved portion of the highway" embraces far more than roadway, shoulder and mandatory signals such as stop signs. M.C.L.A. § 691.1402.

[Cases that cite this headnote](#)

[2] **Automobiles**

🔑 Notices, Warning Signals, or Lights

Even if "pass with care" sign is merely advisory in nature, sign falls within statutory definition of "traffic control device" and thus, state does have statutory duty to properly place "pass with care" signs. M.C.L.A. §§ 257.70, 257.640.

[Cases that cite this headnote](#)

[3] **Automobiles**

🔑 Notices, Warning Signals, or Lights

"Pass with care" sign is "mandatory signal" within requirements of statute governing state's duty towards improved portions of highway, as sign serves to regulate motorist's right to pass other cars. M.C.L.A. §§ 257.640, 691.1402.

[Cases that cite this headnote](#)

[4] **Automobiles**

🔑 Proximate Cause

Evidence was sufficient to support conclusion that placement of "pass with care" sign was causally related to motorist's perception that conditions were safe for passing, and in turn was causally related to accident which caused injuries to passenger in other vehicle, and thus accident was natural, probable and foreseeable consequence of state's act of misplacing its sign.

[Cases that cite this headnote](#)

[5] **Appeal and Error**

🔑 Clearly Erroneous Findings

Trial court's findings of fact may be found to be clearly erroneous only when reviewing court on entire evidence is left with definite and firm conviction that mistake has been made.

[Cases that cite this headnote](#)

[6] **Automobiles**

🔑 [Proximate Cause](#)

Automobiles

🔑 [Verdict and Findings](#)

In action against state alleging passenger's injuries were caused by state's misplacement of "pass with care" sign, factual findings on credibility of witness and motorist were neither incomplete nor clearly erroneous and supported conclusion that lack of adequate clear sight distance at point where sign was located was proximate cause of motorist's decision to move into passing lane, where motorist's testimony that she did not see passenger's car until moment of impact was corroborated, and state failed to demonstrate how possibility that motorist was drinking while driving operated to reduce credibility of her testimony.

[3 Cases that cite this headnote](#)

[7] **Appeal and Error**

🔑 [Credibility of Witnesses](#)

It is province of fact finder to weigh evidence and to believe or to disbelieve any testimony.

[4 Cases that cite this headnote](#)

[8] **Automobiles**

🔑 [Proximate Cause](#)

Motorist's alleged action in pulling into passing lane somewhat in advance of "pass with care" sign did not break causal link between state's negligence in misplacing sign and injuries of passenger in other vehicle involved in collision, as state's duty of care in placing signs included duty of taking into account highway user's foreseeable action of beginning to pass after observing pass with care sign, but before actually reaching it.

[Cases that cite this headnote](#)

[9] **Negligence**

🔑 [In General; Foreseeability of Other Cause](#)

Intervening negligence of third party does not supersede original tort-feasor's negligence, so long as intervening force is reasonably foreseeable, and original act of negligence remains operative.

[1 Cases that cite this headnote](#)

[10] **Trial**

🔑 [Discretion of Court](#)

In action against state for injuries suffered from automobile collision allegedly due to misplacement of "pass with care" sign, court did not abuse its discretion in viewing scene of accident, during which viewing expert used various distance markers to demonstrate that objects in passing lane were not visible at certain distances from point where motorist pulled out to pass, as court stenographer and defense counsel were present, legitimizing procedure and protecting state from prejudice.

[3 Cases that cite this headnote](#)

[11] **Trial**

🔑 [Discretion of Court](#)

Court sitting as trier of fact has as much discretion to view automobile accident scene as would jury, and fact finder may meet with qualified expert at subject scene for purpose of receiving explanation of dimensions of premises; presence of court stenographer to transcribe communications between expert and court legitimizes procedure of visiting scene and presence of opposing party's counsel further serves to safeguard that party's right to ensure that court receives fair and unbiased presentation.

[3 Cases that cite this headnote](#)

[12] **Evidence**

🔑 [Nature, Condition, and Relation of Objects](#)

In action against state for injuries suffered from automobile collision allegedly due to misplacement of "pass with care" sign, court acted properly in allowing presentation of

expert, who accompanied court to scene of accident and used various distance markers to demonstrate that objects in passing lane were not visible at certain distances from point where motorist pulled out to pass, as state made no objection to substance of expert's presentation except to advise that figures and conclusions were only "approximations," and presentation was necessary to resolve conflicting testimony concerning sight distances open to each motorist.

[Cases that cite this headnote](#)

[13] Evidence

🔑 Motion Pictures

Motion pictures offered to recreate scene of accident are not admissible unless they portray conditions almost identical to those prevailing at time of accident itself, but on other hand, where film is offered merely to illustrate certain general principles, differences in surrounding conditions are less relevant and do not require film's exclusion.

[7 Cases that cite this headnote](#)

[14] Evidence

🔑 Motion Pictures

Motion picture simulating automobile accident was admissible in action against state alleging misplacement of "pass with care" sign, as film was offered solely to illustrate amount of time oncoming cars disappeared from view at intersection, and court specifically found that film was not intended to recreate scene as it appeared to motorists from roadway.

[5 Cases that cite this headnote](#)

[15] Pleading

🔑 Condition of Cause and Time for Amendment in General

Where defendant state had actual notice of injured passenger's claim for aggravation of his medical condition well before trial, was apparently fully prepared to litigate issue and made no showing whatsoever that it had been prejudiced by admission of evidence as to

subject, posttrial amendment of passenger's pleadings to conform to proofs was proper. GCR 1963, 118.3, 301.1 et seq.

[3 Cases that cite this headnote](#)

[16] Damages

🔑 Personal Injuries and Physical Suffering

In action against state alleging that improper placement of "pass with care" sign caused automobile collision resulting in passenger's injuries, evidence was sufficient to support finding that passenger suffered aggravation of preexisting multiple sclerosis.

[1 Cases that cite this headnote](#)

[17] Judgment

🔑 Actions for Tort

Statute governing pro rata shares of tort-feasors in entire liability preserves right of contribution between joint tort-feasors, but reaffirms that principles of joint and several liability have survived, thus entitling plaintiff to recover entire judgment from single defendant, even though defendant's responsibility for accident has been adjudicated at less than 100 percent. M.C.L.A. § 600.2925b.

[1 Cases that cite this headnote](#)

[18] Contribution

🔑 Measure of Contribution

Reduction by one third of damages award to passenger against state, which can be joint tort-feasor despite involvement of private tort-feasors, based on percentage of negligence of motorist in causing injuries to passenger of other vehicle was error. M.C.L.A. § 600.2925b.

[1 Cases that cite this headnote](#)

[19] Damages

🔑 Impairment of Earning Capacity

Damages

🔑 Computation of Amount

Generally, in fixing damages for lost future earning capacity resulting from personal injuries, courts must disregard income tax consequences.

[3 Cases that cite this headnote](#)

[20] Damages

➤ Computation of Amount

Statutory section relating to actions arising from negligent ownership, maintenance or use of motor vehicle did not authorize deduction of prospective taxes from damages award against state arising from state's allegedly negligent maintenance of highway in breach of entirely distinct statutory duty. *M.C.L.A. §§ 500.3135(2)(c)*, 691.1402.

[2 Cases that cite this headnote](#)

[21] Damages

➤ Impairment of Earning Capacity

Reduction of award for lost future earnings by amount representing income taxes which might have to be paid on those earnings would have been error even if authorized by statute where state failed to meet its burden of introducing competent expert testimony concerning passenger's prospective tax status and offered only raw tax tables whose prospective applicability to passenger was open to question.

[4 Cases that cite this headnote](#)

[22] Damages

➤ Matter of Mitigation; Collateral Source Rule in General

Policy of "collateral source rule," which provides that plaintiff's award must not be reduced by amounts received from independent source such as insurer, is to encourage citizens to purchase and maintain insurance for personal injuries, and policy is unaffected by factors such as identity of tortfeasor.

[Cases that cite this headnote](#)

[23] Damages

➤ Reduction of Loss by Insurance

Collateral source rule should have been applied to injured passenger's recovery against state for misplaced highway sign, precluding deduction from award of work loss benefits which passenger received from his insurer.

[Cases that cite this headnote](#)

[24] Damages

➤ Injuries to the Nervous System and Paralysis

Assessment of damages of \$2,100,000 against state in favor of automobile passenger, whose prior "benign" condition of multiple sclerosis became "malignant" as result of injuries sustained in collision, was proper.

[Cases that cite this headnote](#)

Attorneys and Law Firms

****638 *328** Pianin, Graber & Paull, P.C. by Michael P. Pianin and Samuel A. Graber, Southfield; and Gromek, Bendure & Thomas by Carl L. Gromek, Nancy L. Bosh and Daniel J. Wright, Detroit, of counsel, for plaintiff-appellee, cross-appellee.

Frank J. Kelley, Atty. Gen., Louis J. Caruso, Sol. Gen., Carl K. Carlsen and Clive D. Gemmill, Asst. Attys. Gen., and George J. Platsis, Sp. Asst. Atty. Gen., for defendant-appellant, cross-appellant.

Before ALLEN, P.J., and BRONSON and WAHLS, JJ.

Opinion

BRONSON, Judge.

Defendant appeals as of right from a judgment entered in favor of plaintiff, finding that defendant had been negligent in failing to ***329** properly maintain a highway at the intersection of South Lapeer Road (M-24) and Kile Road. After reaching its verdict as to liability, the court computed plaintiff's damages at \$2,100,000; however, the court ruled that several factors required it to reduce the award to \$971,140. Plaintiff cross-appeals from the court's decision to reduce the award. We find no error in the court's

determination of liability, but agree with plaintiff that the court erred in relying upon certain factors to reduce the damage award.

[1] Defendant first contends that the court erred in finding that it had a duty to ensure the proper placement of a “pass with care” sign. According to defendant, such a sign is not an integral part of the improved portion of a highway within the meaning of [M.C.L. § 691.1402](#); M.S.A. § 3.996(102); defendant characterizes such signs as being merely advisory or cautionary in nature, rather than mandatory traffic control devices such as stop signs, *cf.*, [Lynes v. St. Joseph County Road Comm.](#), 29 Mich.App. 51, 58, 185 N.W.2d 111 (1970). We disagree. This Court has gone beyond a narrow definition of the “improved portion of the highway” proposed by defendant; the term embraces far more than the roadway, shoulder and mandatory signals such as stop signs. Several recent decisions have expressly included within the definition such “cautionary” or advisory devices as warning signs, [Greenleaf v. Dep’t of State Highways & Transportation](#), 90 Mich.App. 277, 282 N.W.2d 805 (1979); [Salvati v. Dep’t of State Highways](#), 92 Mich.App. 452, 285 N.W.2d 326 (1979), and guardrails, [Kurczewski v. State Highway Comm.](#), 112 Mich.App. 544, 316 N.W.2d 484 (1982); [Hall v. Dep’t of State Highways](#), 109 Mich.App. 592, 311 N.W.2d 813 (1981), *lv. den.* 413 Mich. 942 (1982).

[2] [3] Even if, as defendant contends, a “pass with *330 care” sign is merely advisory in nature, such a sign falls within the definition of a “traffic control device” contained in [M.C.L. § 257.70](#); M.S.A. § 9.1870:

“ ‘Traffic control devices’ means all *signs*, signals, markings, and devices * * * placed * * * by authority of a public body * * * for the purpose of regulating, *warning* or *guiding* traffic.” (Emphasis added.)

We would go one step further and note that, despite defendant’s assertions to the contrary, such a sign is in fact mandatory in nature in that it actually serves to regulate a motorist’s right to pass other cars. Plaintiff points out in his brief that a “pass with care” sign not only guides traffic in advising motorists of conditions which may be safer and more conducive to passing, but that such a sign also denotes the end of a no-passing zone, thereby specifically permitting or inviting a motorist to pass. [M.C.L. § 257.640](#); M.S.A. § 9.2340. We conclude that defendant does in fact have a statutory duty to properly place “pass with care” signs. Accordingly, there is no merit **639 in defendant’s

argument that it had no duty to properly place the sign in question in the present case.

[4] Defendant next raises two separate challenges to the trial court’s finding of proximate cause. First, defendant urges that the improper placement of its sign could not even have been a “but for” cause of plaintiff’s accident. Defendant insists that, at most, the sign could only have been advanced 30 or 40 feet. From this premise, defendant argues that this slight distance would not have given the motorists in the present case a significantly greater amount of time to pass safely. We disagree.

First, defendant relies heavily upon the testimony of its own expert that the sign was misplaced *331 by only 30 feet; the trial court could properly have relied on the contrary testimony of plaintiff’s expert that the sign was 90 to 95 feet out of place. More important, the trial court found that the issue at hand was not the amount of time the motorists might have had to pass once the decision was made to do so; instead, the crucial consideration was the sight distance open to the driver of the other car, Ms. Linda Nascenzi, at the time she first observed the pass with care sign. It was the latter factor which was essential in forming the basis for her decision to venture into the passing lane.

Plaintiff’s expert produced evidence that given the placement of defendant’s sign a person such as Nascenzi, whose line of vision was 3.5 feet above the ground, could see only 500 feet ahead; cars between 500 and 900 feet away were not visible at that point. This evidence is sufficient to support the factfinder’s conclusion that the placement of the sign was causally related to Nascenzi’s perception that conditions were safe for passing, and in turn causally related to the accident which caused plaintiff’s injuries. The accident was a natural, probable and foreseeable consequence of defendant’s act of misplacing its sign, see, [Clumfoot v. St. Clair Tunnel Co.](#), 221 Mich. 113, 116, 190 N.W. 759 (1922).

[5] The other aspect of defendant’s appeal as to causation focuses upon the trial court’s findings of fact as to this issue. According to defendant, the court’s findings were both erroneous and incomplete, in that (1) the court made certain findings as to the credibility of witnesses, and (2) the court failed to make sufficient findings to show why the negligence of Nascenzi was not the sole proximate cause of the accident. In reviewing these contentions, *332 we are mindful of the Supreme Court’s admonition in [Tuttle v. Dep’t of State Highways](#), 397 Mich. 44, 46, 243 N.W.2d 244 (1976), that a

trial court's findings of fact may only be found to be clearly erroneous when the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made.

[6] We are unable to find clear error in the trial court's determinations as to the relative credibility of witness Mr. Leo Derderian, on the one hand, and Nascenzi, on the other. The court's findings reveal the factual basis for its decision that the lack of adequate clear sight distance at the point where the "pass with care" sign was located was a proximate cause of Nascenzi's decision to move into the passing lane. Nascenzi's testimony that she did not see plaintiff's car until the moment of impact was corroborated by the testimony of the driver of plaintiff's car, Dr. Marvin Jaffee. He also reported having seen the oncoming car only at the moment of impact.

Derderian, on the other hand, stated that Nascenzi was in the passing lane for a substantial period of time before encountering the oncoming car containing plaintiff. The trial court noted that Derderian's description of the topography at the point of Nascenzi's entry into the passing lane suggests that the latter must have travelled almost a quarter of a mile in the passing lane—a finding which would have been inconsistent with Derderian's own estimate that she had travelled only about 500 feet in that lane. Other factors support the trial court's finding that Derderian's testimony may have resulted from a faulty or incomplete memory of the accident. His deposition reveals that he did not recall certain rather basic aspects of the incident, **640 such as the hour of the *333 day, whether the oncoming car containing plaintiff had its lights on, whether the car which Nascenzi attempted to pass was hauling a trailer, and for that matter, whether there were any "pass with care" signs at all in the area. Given the foregoing, we cannot question the court's findings concerning the relative credibility of Nascenzi and Derderian.

[7] Defendant makes much of the evidence that Nascenzi might have been drinking while driving but fails to demonstrate how this aspect of her negligence operates to reduce the credibility of her testimony, as well as that of the driver of plaintiff's car, that neither driver saw the other until the moment of impact. We also note that it is the province of the factfinder to weigh evidence and to believe or disbelieve any testimony. *Hazen v. Rockefeller*, 303 Mich. 536, 547, 6 N.W.2d 770 (1942); *Vial v. Vial*, 369 Mich. 534, 120 N.W.2d 249 (1963).

The trial court adequately stated its reasons for disbelieving Derderian's account of what had taken place. The court also amply stated its reason for rejecting the testimony of defendant's expert, Mr. William Lebel, concerning the circumstances of the accident: that all of the expert testimony was based upon "very selective" and unproven assumptions which were not in evidence. In short, we find that the court's factual findings as to the credibility of witnesses were neither incomplete nor clearly erroneous.

[8] Similarly, we reject defendant's claim that the trial court erred in refusing to find Nascenzi's negligence to have been the sole proximate cause of the accident. According to defendant, the court erred in failing to take into account the possibility that drivers such as Nascenzi might begin to pass shortly *before* the point where a "pass with care" sign is located. Defendant goes on to posit that this *334 was precisely what happened: that consistent with Derderian's testimony—Nascenzi pulled into the passing lane well ahead of the sign, as her car was still climbing the latter of two hills, and that Nascenzi's own negligence, rather than the placement of the sign, was the proximate cause of the accident. Despite our ruling, *supra*, that the trial court could properly reject the testimony in support of this theory, we are willing to assume *arguendo* that Nascenzi did in fact pull into the passing lane somewhat in advance of the sign. Nonetheless, we decline to find that this action served to break the casual link between defendant's negligence and plaintiff's injuries.

[9] Defendant's duty in placing the sign included keeping the premises safe to guard against the foreseeable negligence of third parties, see, e.g., *Samson v. Saginaw Professional Building, Inc.*, 393 Mich. 393, 224 N.W.2d 843 (1975); *Johnston v. Harris*, 387 Mich. 569, 573-5, 198 N.W.2d 409 (1972). This Court has also recognized that defendant has a duty to anticipate dangers arising from the congruence of a defect in improved portions of the highway, M.C.L. § 691.1402; M.S.A. § 3.996(102), and the foreseeable negligence of highway users, see, e.g., *Hall, supra*, pp. 603-604, 311 N.W.2d 813; *Van Liere v. State Highway Dep't*, 59 Mich.App. 133, 138, 229 N.W.2d 369 (1975). The intervening negligence of a third party does not supersede the original tortfeasor's negligence, so long as the intervening force is reasonably foreseeable, *Sivley v. State Highway Dep't*, 32 Mich.App. 267, 269, 189 N.W.2d 507 (1971), and the original act of negligence remains operative, *Hall, supra*. Accordingly, the trial court did not err in observing that defendant's duty of care in placing signs included the duty of taking into account a highway user's foreseeable action

of beginning to *335 pass after observing such a sign, but before actually reaching it. In turn, the court acted properly in making the foregoing observation a basis for its finding as to proximate cause. Particularly, given the lack of credible evidence that Nascenzi committed even this limited and foreseeable act of negligence, we conclude that there is no basis for any holding that the court's findings as to proximate cause were clearly erroneous.

**641 [10] [11] [12] Defendant next raises two procedural issues: (1) that the court erred as a matter of law in viewing the scene of the accident; and (2) that the court erred in admitting into evidence a motion picture simulating the accident. Neither of these issues warrants reversal. As to the court's decision to view the scene, we find no abuse of discretion. A court sitting as trier of facts has as much discretion to view the subject scene as would a jury. See, 2 Honigman & Hawkins, Michigan Court Rules Annotated (2d ed.), p. 499; *Toussaint v. Conta*, 292 Mich. 366, 369, 290 N.W. 830 (1940). The factfinder may meet with a qualified expert at the subject scene for the purpose of receiving an explanation of the dimensions of the premises. *Wayne County Bd. of Road Comm'rs v. GLS Leasco*, 394 Mich. 126, 140-141, 229 N.W.2d 797 (1975). The presence of this court stenographer to transcribe the communications between the expert and the court legitimizes the procedure of visiting the scene; the presence of the opposing party's counsel further serves to safeguard that party's right to ensure that the court receives a fair and unbiased presentation.

In the instant case, plaintiff's expert accompanied the trial court to the scene and used various distance markers to demonstrate that objects in the passing lane were not visible at certain distances from the point where Nascenzi pulled out *336 to pass. The court stenographer and defense counsel were present, in turn legitimizing the procedure and protecting defendant from prejudice. Cf., *Valentine v. Malone*, 269 Mich. 619, 257 N.W. 900 (1934), where the court's view of the scene was undertaken without notice to the parties or their attorneys and in their absence. We also note that defendant made no objection to the substance of the expert's presentation except to advise that the expert's figures and conclusions were only "approximations". Given the lack of demonstrable prejudice, we find that the court acted properly in allowing this presentation. If anything, the presentation was necessary to resolve conflicting testimony concerning sight distances open to each motorist.

[13] [14] There was similarly no error in the trial court's decision to admit a motion picture simulating the accident, despite the fact that there were noticeable differences between the conditions portrayed in the film and those prevailing at the time of the accident. Where motion pictures are offered to recreate the scene of an accident, they are not admissible unless they portray conditions almost identical to those prevailing at the time of the accident itself. *Green v. General Motors Corp.*, 104 Mich.App. 447, 449, 304 N.W.2d 600 (1981). On the other hand, where a film is not offered for the purpose of duplicating or recreating an accident, but instead merely to illustrate certain general principles, differences in surrounding conditions are less relevant and do not require the film's exclusion. *Id.*

In the present case, plaintiff offered the film solely to illustrate certain physical principles; there was no effort to actually recreate the accident. Accordingly, we attach little significance to *337 the fact that at the time the film was taken: (1) the cameras were located along the shoulder rather than being on the roadway, as the motorists had been; (2) the weather was cloudy, rather than clear as on the night of the accident; and (3) the time of day was afternoon, rather than dusk as on the night of the accident. These variations in conditions would have been significant if the motion picture were designed to reproduce the conditions of visibility at the time of the accident. However, they have little to do with "the amount of time (oncoming) cars disappear from view" at the intersection, the sole matter which, according to plaintiff's offer of proof, the film proposed to illustrate. The trial court specifically found that the film was not intended to recreate the scene as it appeared to the motorists from the roadway; the court instead observed that it was a "close enough representation" of conditions and sight distances along the roadway to serve as a useful and relevant piece of evidence. We conclude that there was no abuse of discretion as to this issue.

[15] Defendant's final contention on appeal is that the trial court erred in its **642 determination of plaintiff's damages. Specifically, defendant urges that the court clearly erred in finding that plaintiff suffered an aggravation of his pre-existing medical condition ([multiple sclerosis](#)) as a result of the accident. Defendant makes much of the fact that plaintiff failed to plead aggravation of his medical condition until his pre-trial statement, over 3 ½ years after filing his complaint. We attach no significance to the delay in pleading this matter. Defendant had actual notice of this aspect of plaintiff's claim for damages well before trial. Defendant was

apparently fully prepared to litigate the issue and has made no showing whatsoever that it *338 has been prejudiced by the admission of evidence as to this subject. *Cf.*, *Ben P. Fyke & Sons v. Gunter Co.*, 390 Mich. 649, 213 N.W.2d 134 (1973). Under the circumstances, and absent a showing of surprise or prejudice, we believe that the court acted properly in allowing a post-trial amendment of the pleadings to conform to the proofs, *Woodrow v. Johns*, 61 Mich.App. 255, 266, 232 N.W.2d 688 (1975); *Fitzgerald v. Bixler*, 368 Mich. 160, 117 N.W.2d 328 (1962); GCR 1963, 118.3, 301.

[16] We also find that the evidence was sufficient to support the court's findings as to this issue. Several doctors who had examined plaintiff both before and after the accident gave testimony describing the change in his condition. Most, if not all, agreed that the accident had caused his formerly "benign" condition of [multiple sclerosis](#) to become "malignant". Despite the trial court's findings that plaintiff had been "less than candid" with respect to certain aspects of his claim, the court was not bound to reject as incredible all of plaintiff's testimony regarding his condition. Moreover, the medical testimony corroborated plaintiff's testimony regarding his post-accident condition, and provided substantial independent support for plaintiff's position that the accident aggravated his illness. As a result, we defer to the trial court's findings of fact as to this issue.

The issues raised in plaintiff's cross-appeal relate exclusively to the trial court's award of damages. We agree with plaintiff that the trial court erred in relying upon certain factors to reduce its award.

First, plaintiff protests the trial court's decision to reduce his award by one-third, based upon the court's finding that Nascenzi was one-third responsible for the accident. Although certain members *339 of this Court have in the past advocated adoption of a system of comparative negligence among joint tortfeasors. See, *e.g.*, *Reed v. St. Clair Rubber Co.*, 118 Mich.App. 1, 11-14, 324 N.W.2d 512 (1982) (Bronson, J., concurring), see also, *American Motorcycle Ass'n v. Superior Court of Los Angeles County*, 20 Cal.3d 578, 146 Cal.Rptr. 182, 578 P.2d 899 (Cal., 1978) (Clark, J., dissenting); Fleming, *Report to the Joint Committee of the California Legislature on Tort Liability on the Problems Associated with American Motorcycle Association v. Superior Court*, 30 Hastings L.J. 1465, 1482-1487 (1979), this Court is bound by the recent Supreme Court decision in *Mayhew v. Berrien County Road Comm.*, 414 Mich. 399, 326 N.W.2d 366 (1982). Although *Mayhew*, *supra*, is nominally

distinguishable, in that it involved a situation where the non-party joint tortfeasor had settled with the plaintiff, the policies underlying *Mayhew* are applicable here:

"[N]umerous difficulties would be presented if we were to allow the (trier of fact) to apportion damages among all tortfeasors, (including non-parties). It would mean that the (non-party) tortfeasor's liability would be assessed without anyone adequately representing that interest. It would put the plaintiff in a unique trial situation. The plaintiff would not only have to advocate that he was not at fault, he would have to convince the jury that the non-party was only minimally at fault. Otherwise, there might be too great a percentage of fault attributed to the non-party, thus reducing the plaintiff's recovery." 414 Mich. 412, 326 N.W.2d 366.

Several recent decisions of this Court have applied similar reasoning to hold that the theory of joint and several liability was **643 not affected by this state's adoption of comparative negligence doctrines in *340 *Placek v. Sterling Heights*, 405 Mich. 638, 275 N.W.2d 511 (1979); see for example, *Anderson v. Harry's Army Surplus, Inc.*, 117 Mich.App. 601, 324 N.W.2d 96 (1982); *Ferdig v. Melitta, Inc.*, 115 Mich.App. 340, 320 N.W.2d 369 (1982); *Johnston v. Billot*, 109 Mich.App. 578, 311 N.W.2d 808 (1981); *Bacon v. Dep't of State Highways*, 115 Mich.App. 382, 320 N.W.2d 681 (1982). In *Edwards v. Joblinski*, 108 Mich.App. 371, 310 N.W.2d 385 (1981), a case decided more than two years after *Placek*, *supra*, this Court reaffirmed the principle that where two or more persons concur in producing a single indivisible injury, such persons are jointly and severally liable, even if they do not act in concert. 108 Mich.App. 376. The Court specifically applied that principle to a highway maintenance case similar to the present one, where the negligence of one tortfeasor—a road user—was found to have been foreseeable to the other tortfeasor (the highway authority). The Court found that "an innocent plaintiff should be fully compensated even if it meant that one negligent defendant had to be responsible for the total loss to compensate for the insolvency of another negligent defendant". 108 Mich.App. 377, 310 N.W.2d 385. Accord, *Weeks v. Felmer*, 99 Mich.App. 392, 395, 297 N.W.2d 678 (1980).

[17] The policy underlying the foregoing decisions have been reaffirmed by the recent amendment to [M.C.L. § 600.2925b](#); M.S.A. § 27A.2925(2) effective April 28, 1982. That section now provides in part:

“In determining the pro rata shares of tortfeasors in the entire liability as *between themselves only and without affecting the rights of the injured party to a joint and several judgment*:

(a) Their relative degrees of fault shall be considered.” (Emphasis added.)

The amended statute preserves a right of contribution *341 between joint tortfeasors, but the emphasized language reaffirms that principles of joint and several liability have survived *Placek, supra*. In short, the foregoing language requires this Court to recognize plaintiff's right to recover the entire judgment from defendant herein, even though defendant's responsibility for the accident has been adjudicated as less than 100%.

[18] In concluding discussion of this aspect of the cross-appeal, we note that defendant has cited no authority for its position that under M.C.L. § 691.1401 *et seq.*; M.S.A. § 3.996(101) *et seq.*, the state can never be a joint tortfeasor with another person, or that the state had never “consented” to pay for the torts of other persons. In fact, the results in *Edwards, supra*, and *Bacon, supra*, and most notably, *Mayhew, supra*, compel the contrary conclusion. In each case, highway maintenance authorities were found to have been joint tortfeasors responsible to an injured party, despite the involvement of other private tortfeasors. Absent the citation of some authority favoring defendant's position, this Court has no choice but to conclude that the trial court erred in reducing the award by one-third based on Nascenzi's negligence. The present case should be remanded for a recomputation of damages free of this error.

[19] [20] The trial court also erred by reducing the award for lost future earnings by the amount representing income taxes which might have to be paid on those earnings. Generally, in fixing damages for lost future earning capacity resulting from personal injuries, courts must disregard the income tax consequences. Anno, *Propriety of Taking Income Tax into Consideration in Fixing Damages in Personal Injury or Death Action*, 63 A.L.R.2d 1393, 1395-96. The decisions indicate that deductions *342 for prospective taxes are only proper where specifically provided for by statute, *Miller v. State Farm Mutual Automobile Ins. Co.*, 410 Mich. 538, 562-565, 302 N.W.2d 537 (1981). *Longworth v. Dep't of State Highways*, 110 Mich.App. 771, 783-784, 315 N.W.2d 135 (1981). Defendant's assertions to the contrary, M.C.L. § 500.3135(2)(c); M.S.A. § 24.13135(2)(c) does not apply

to authorize the deduction of prospective taxes here. Even if, as defendant contends, that **644 section could in fact authorize the reduction of tort recoveries in certain cases, the section applies only to actions arising from the negligent ownership, maintenance or use of a motor vehicle. The present action is not one based upon ownership, maintenance or use of the defendant's motor vehicle. Instead, the present action arises from defendant's negligent maintenance of a highway, a breach of an entirely distinct statutory duty, M.C.L. § 691.1402; M.S.A. § 3.996(102). In *Edwards v. Joblinski, supra*, this Court held that the liability of a county road commission does not arise from the ownership, maintenance or use of a motor vehicle, but instead from the statutory duty to maintain highways in reasonable repair. The present case is almost identical. Accordingly, we find no basis for applying M.C.L. § 500.3135(2)(c); M.S.A. § 24.13135(2)(c), to require deduction of prospective taxes from plaintiff's award of damages.

[21] Defendant has not pointed to any other statute which might have authorized the court's deduction of prospective taxes, but even if it had, the court still would have erred in making such a deduction, because defendant failed to meet its burden of introducing competent expert testimony concerning plaintiff's prospective tax status, *O'Loughlin v. Detroit & Mackinac R Co.*, 22 Mich.App. 146, 177 N.W.2d 430 (1970). See *Longworth, supra*, where this Court observed:

*343 “The trial court based its calculation of plaintiff(s) future earnings on his expected *gross* income, making no deduction for the effect of taxes. Defendant contends that an award of damages for future earnings must be based on *net* earnings and that therefore this case must be remanded to the trial court for recomputation of damages.

“Although no Michigan court has decided this question, federal courts applying Michigan Law have held that gross earnings are the proper measure. See *e.g.*, *Payne v. Baltimore & Ohio R. Co.*, 309 F.2d 546 (CA 6, 1962), *cert den* 374 US 827; 83 S Ct 1865; 10 L Ed 2d 1051 (1963), *Nice v Chesapeake & Ohio R Co*, 305 F Supp 1167, 1180 (WD Mich, 1969). We find it unnecessary to address this issue at the present time, since defendant introduced no evidence of plaintiff's expected tax status. As this Court stated in *O'Loughlin v Detroit & Mackinac R Co*, 22 Mich App 146, 156; 177 NW2d 430 (1970), ‘Consideration of the effect of taxes, if it is to be allowed, may only be allowed when based upon facts and expert opinion properly brought into evidence.’ Once a plaintiff has introduced evidence of expected gross income, the defendant has the

burden of producing evidence in support of any deduction for taxes, if such a deduction is ever permitted.” 110 Mich. App. 783, 315 N.W.2d 135. (Emphasis in original.)

Even when the trial court offered defendant an opportunity to present such evidence, defendant chose not to, offering instead only raw tax tables whose prospective applicability to plaintiff was open to question. The court lacked a factual basis for reducing plaintiff's award, and should have declined to do so. We conclude that the reduction of the award for prospective taxes was error, *Longworth, supra*.

[22] [23] Finally, we agree with plaintiff that the trial court erred in failing to apply the collateral source rule, *Tebo v. Havlik*, 109 Mich.App. 413, 415, 311 N.W.2d 372 (1981). The court deducted \$11,000 in work-loss benefits which plaintiff has received *344 from his insurer. The collateral source rule provides that a plaintiff's award must not be reduced by amounts received from an independent source such as an insurer. The policy underlying the rule is an effort to encourage citizens to purchase and maintain insurance for personal injuries, Anno, *Collateral Source Rule: Injured Person's Hospitalization or Medical Insurance as Affecting Damages Recoverable*, 77 A.L.R.3d 415, 419. Defendant's assertions to the contrary, the policy underlying the rule is unaffected by factors such as the identity of the tortfeasor. In other words, there is no basis for defendant's assertion

that the collateral source rule should not be applied **645 merely because the state rather than a private tortfeasor is the party defendant. Similarly, defendant's arguments for abolition of the collateral source rule are based more upon policy considerations than case authority, and should be directed towards the Legislature, rather than this Court.

[24] In summary, the trial court acted properly in finding defendant liable for negligent maintenance of the subject highway, and properly made its assessment of damages (\$2,100,000). However, the court erred in undertaking to reduce that award (1) by the proportion of a third party's negligence, (2) by the amount of income tax which plaintiff might have to pay on his lost future earnings, and (3) by the amounts received by plaintiff from his insurer.

The matter should be remanded for entry of a judgment in favor of plaintiff, in the amount of damages originally assessed by the court, \$2,100,000. Except for removal of the improper deductions, the trial court's judgment is affirmed.

Affirmed as modified, and remanded for proceedings consistent with this opinion.

All Citations

127 Mich.App. 324, 339 N.W.2d 635

Exhibit 4 to MDOT's MSJ



Manual on **Uniform Traffic Control Devices**

*2011 Michigan MUTCD
2009 Federal Edition*



Revised September 2013

CHAPTER 2D. GUIDE SIGNS—CONVENTIONAL ROADS

Section 2D.01 Scope of Conventional Road Guide Sign Standards

Standard:

- 01 The provisions of this Chapter shall apply to any road or street other than low-volume roads (as defined in Section 5A.01), expressways, and freeways.

Section 2D.02 Application

Support:

- 01 Guide signs are essential to direct road users along streets and highways, to inform them of intersecting routes, to direct them to cities, towns, villages, or other important destinations, to identify nearby rivers and streams, parks, forests, and historical sites, and generally to give such information as will help them along their way in the most simple, direct manner possible.
- 02 Chapter 2A addresses placement, location, and other general criteria for signs.

Section 2D.03 Color, Retroreflection, and Illumination

Support:

- 01 Requirements for illumination, retroreflection, and color are stated under the specific headings for individual guide signs or groups of signs. General provisions are given in Sections 2A.07, 2A.08, and 2A.10.

Standard:

- 02 **Except where otherwise provided in this Manual for individual signs or groups of signs, guide signs on streets and highways shall have a white message and border on a green background. All messages, borders, and legends shall be retroreflective and all backgrounds shall be retroreflective or illuminated.**

Support:

- 03 Color coding is sometimes used to help road users distinguish between multiple potentially confusing destinations. Examples of valuable uses of color coding include guide signs for roadways approaching or inside an airport property with multiple terminals serving multiple airlines, and community wayfinding guide signs for various traffic generator destinations within a community or area.

Standard:

- 04 **Except where otherwise provided in this Manual, different color sign backgrounds shall not be used to provide color coding of destinations. The color coding shall be accomplished by the use of different colored square or rectangular sign panels on the face of the guide signs.**

Option:

- 05 The different colored sign panels may include a black or white (whichever provides the better contrast with the panel color) letter, numeral, or other appropriate designation to identify an airport terminal or other destination.

Support:

- 06 Two examples of color-coded sign assemblies are shown in Figure 2D-1. Section 2D.50 contains specific provisions regarding Community Wayfinding guide signs.

Section 2D.04 Size of Signs

Standard:

- 01 **Except as provided in Section 2A.11, the sizes of conventional road guide signs that have standardized designs shall be as shown in Table 2D-1.**

Support:

- 02 Section 2A.11 contains information regarding the applicability of the various columns in Table 2D-1.

Option:

- 03 Signs larger than those shown in Table 2D-1 may be used (see Section 2A.11).

Support:

- 04 For other guide signs, the legends are so variable that a standardized design or size is not appropriate. The sign size is determined primarily by the length of the message, and the size of lettering and spacing necessary for proper legibility.

Option:

- 05 Reduced letter height, reduced interline spacing, and reduced edge spacing may be used on guide signs if sign size must be limited by factors such as lane width or vertical or lateral clearance.

Section 2D.11 Design of Route Signs

Standard:

01 The “Standard Highway Signs and Markings” book (see Section 1A.11) shall be used for designing route signs. Other route sign designs shall be established by the authority having jurisdiction.

02 Interstate Route signs (see Figure 2D-3) shall consist of a cutout shield, with the route number in white letters on a blue background, the word INTERSTATE in white upper-case letters on a red background, and a white border. This sign shall be used on all Interstate routes and in connection with route sign assemblies on intersecting highways.

03 A 24 x 24-inch minimum sign size shall be used for Interstate route numbers with one or two digits, and a 30 x 24-inch minimum sign size shall be used for Interstate route numbers having three digits.

Option:

04 Interstate Route signs may contain the State name in white upper-case letters on a blue background.

Standard:

05 **Off-Interstate Business Route signs** (see Figure 2D-3) shall consist of a cutout shield carrying the number of the connecting Interstate route and the words BUSINESS and either LOOP or SPUR in upper-case letters. The legend and border shall be white on a green background, and the shield shall be the same shape and dimensions as the Interstate Route sign. In no instance shall the word INTERSTATE appear on the Off-Interstate Business Route sign.

Option:

06 The Off-Interstate Business Route sign may be used on a major highway that is not a part of the Interstate system, but one that serves the business area of a city from an interchange on the system.

07 When used on a green guide sign, a white square or rectangle may be placed behind the shield to improve contrast.

Standard:

08 **U.S. Route signs** (see Figure 2D-3) shall consist of black numerals on a white shield surrounded by a rectangular black background without a border. This sign shall be used on all U.S. routes and in connection with route sign assemblies on intersecting highways.

09 A 24 x 24-inch minimum sign size shall be used for U.S. route numbers with one or two digits, and a 30 x 24-inch minimum sign size shall be used for U.S. route numbers having three digits.

10 **The Michigan State Route signs shall be the M1-6 (see Figure 2D-3).**

Guidance:

11 State Route signs (see Figure 2D-3) should be rectangular and should be approximately the same size as the U.S. Route sign. State Route signs should also be similar to the U.S. Route sign by containing approximately the same size black numerals on a white area surrounded by a rectangular black background without a border. The shape of the white area should be circular in the absence of any determination to the contrary by the individual State concerned.

12 Where U.S. or State Route signs are used as components of guide signs, only the distinctive shape of the shield itself and the route numerals within should be used. The rectangular background upon which the distinctive shape of the shield is mounted, such as the black area around the outside of the shields on the M1-4 and standard M1-6 signs, should not be included on the guide sign. Where U.S. or State Route signs are used as components of other signs of non-contrasting background colors, the rectangular background should be used to so that recognition of the distinctive shape of the shield can be maintained.



Exhibit 5 to MDOT's MSJ



KeyCite Yellow Flag - Negative Treatment

Superseded by Statute as Stated in [O'Leary v. Wayne County Dept. of Public Services](#), Mich.App., May 6, 2014

463 Mich. 143
Supreme Court of Michigan.

Rachel NAWROCKI and Lawrence
Nawrocki, Plaintiffs–Appellants,

v.

**MACOMB COUNTY ROAD
COMMISSION**, Defendant–Appellee.

Brian Evens, Plaintiff–Appellee,

v.

Shiawassee County Road
Commissioners, Defendants–Appellants.

Docket Nos. 107903, 109921.

|
Calendar Nos. 8, 9.

|
Argued Dec. 7, 1999.

|
Decided July 28, 2000.

Pedestrian brought negligence action against county road commission, alleging she suffered serious ankle injuries when she stepped on cracked and broken pavement in roadbed of county road, and in a separate action, motorist injured in collision brought negligence action against county road commission, alleging the commission breached a duty to install additional stop signs or traffic signals at intersection. The Circuit Court, Macomb County, [Lido V. Bucci, J.](#), granted summary disposition against pedestrian, and the Circuit Court, Shiawassee County, [Gerald D. Lostracco, J.](#), granted summary disposition against motorist. Pedestrian and motorist appealed. The Court of Appeals affirmed the dismissal of pedestrian's action and, as to motorist's case, affirmed in part, reversed in part, and remanded. Leave to appeal was granted, and the cases were consolidated. The Supreme Court, [Markman, J.](#), held that: (1) the “highway exception” to governmental immunity under the governmental tort liability act imposes a duty on the state and county road commissions to protect pedestrians from dangerous or defective conditions in the improved portion of the highway designed for vehicular travel, even when injury does not arise as a result of a vehicular accident; (2) pedestrian's pleadings were sufficient to invoke the “highway

exception”; and (3) the “highway exception” does not impose a duty to install, maintain, repair, or improve traffic control devices, overruling [Pick](#), 451 Mich. 607, 548 N.W.2d 603.

Court of Appeals reversed in pedestrian's case, and remanded; Court of Appeals reversed in motorist's case, and Circuit Court's grant of summary disposition reinstated.

[Marilyn J. Kelly, J.](#), filed an opinion concurring in part and dissenting in part, in which [Michael F. Cavanagh, J.](#), concurred.

West Headnotes (29)

[1] **Municipal Corporations**

🔑 Nature and grounds of liability

“Governmental immunity” is the public policy, derived from the traditional doctrine of sovereign immunity, that limits imposition of tort liability on a governmental agency.

[2 Cases that cite this headnote](#)

[2] **Municipal Corporations**

🔑 Governmental powers in general

Governmental immunity from tort liability is expressed in the broadest possible language in the governmental tort liability act, which extends immunity to all governmental agencies for all tort liability whenever they are engaged in the exercise or discharge of a governmental function, but subject to certain exceptions, relating to highways, motor vehicles, public buildings, proprietary functions, and governmental hospitals. [M.C.L.A. §§ 691.1401 et seq., 691.1402, 691.1405, 691.1406, 691.1407\(4\), 691.1413.](#)

[27 Cases that cite this headnote](#)

[3] **Municipal Corporations**

🔑 Constitutional and statutory provisions

Legislature's refusal to abolish completely governmental immunity in the governmental tort liability act evidences a clear legislative judgment that public and private tortfeasors are

to be treated differently. [M.C.L.A. § 691.1401 et seq.](#)

[Cases that cite this headnote](#)

[4] Municipal Corporations

[Nature and grounds of liability](#)

Although governmental agencies may be under many duties with regard to services they provide to the public, only those enumerated within the statutorily created exceptions to governmental immunity under the governmental tort liability act are legally compensable if breached. [M.C.L.A. § 691.1407.](#)

[6 Cases that cite this headnote](#)

[5] Municipal Corporations

[Constitutional and statutory provisions](#)

Immunity conferred upon governmental agencies in the governmental tort liability act is broad, and the statutory exceptions thereto are to be narrowly construed. [M.C.L.A. § 691.1401 et seq.](#)

[59 Cases that cite this headnote](#)

[6] Automobiles

[Nature and Grounds of Liability](#)

Because the “highway exception” is a narrowly drawn exception to a broad grant of governmental immunity under the governmental tort liability act, there must be strict compliance with the conditions and restrictions of the highway exception. [M.C.L.A. § 691.1402\(1\).](#)

[30 Cases that cite this headnote](#)

[7] Statutes

[Intent](#)

When reviewing questions of statutory construction, the Supreme Court’s purpose is to discern and give effect to the Legislature’s intent.

[6 Cases that cite this headnote](#)

[8] Statutes

[Plain Language; Plain, Ordinary, or Common Meaning](#)

Statutes

[Purpose and intent; determination thereof](#)

It is a fundamental principle of statutory construction that the words used by the Legislature shall be given their common and ordinary meaning, and only where the statutory language is ambiguous may the court look outside the statute to ascertain the Legislature’s intent.

[9 Cases that cite this headnote](#)

[9] Automobiles

[Care required as to condition of way in general](#)

The “highway exception” to governmental immunity under the governmental tort liability act, which states that all government agencies having jurisdiction over any highway must “maintain the highway in reasonable repair so that it is reasonably safe and convenient for public travel,” imposes a single duty of reasonably repairing and maintaining the highway; it does not establish a second duty to keep the highway “reasonably safe.” [M.C.L.A. § 691.1402\(1\).](#)

[25 Cases that cite this headnote](#)

[10] Automobiles

[Care required as to condition of way in general](#)

The statutory “highway exception” to governmental immunity under the governmental tort liability act imposes a duty on the state and county road commissions to repair and maintain only the improved portion of the highway designed for vehicular travel, so that it is reasonably safe and fit for travel; expressly excluded from this duty are sidewalks, crosswalks, or any other installation outside of the improved portion of the highway designed for vehicular travel. [M.C.L.A. § 691.1402\(1\).](#)

[52 Cases that cite this headnote](#)

[11] Automobiles**🔑 Places to which liability extends**

The plain language of the “highway exception” to governmental immunity under the governmental tort liability act definitively limits the state and county road commissions' duty with respect to the location of the alleged dangerous or defective condition; if the condition is not located in the actual roadbed designed for vehicular travel, the narrowly drawn highway exception is inapplicable and liability does not attach. [M.C.L.A. § 691.1402\(1\)](#).

[30 Cases that cite this headnote](#)

[12] Automobiles**🔑 Sufficiency and safety of way in general**

The “highway exception” to governmental immunity under the governmental tort liability act imposes a duty on the state and county road commissions to protect pedestrians from dangerous or defective conditions in the improved portion of the highway designed for vehicular travel, even when injury does not arise as a result of a vehicular accident. [M.C.L.A. § 691.1402\(1\)](#).

[21 Cases that cite this headnote](#)

[13] Automobiles**🔑 Sufficiency and safety of way in general**

Under the “any person” language of the “highway exception” to governmental immunity under the governmental tort liability act, which states that “Any person sustaining bodily injury or damage to his or her property by reason of failure of any governmental agency to keep any highway under its jurisdiction in reasonable repair, and in condition reasonably safe and fit for travel, may recover the damages suffered by him or her from the governmental agency,” pedestrians fall within the general class of travelers protected by the highway exception. [M.C.L.A. § 691.1402\(1\)](#).

[18 Cases that cite this headnote](#)

[14] Automobiles**🔑 Sufficiency and safety of way in general**

“Public travel,” within meaning of “highway exception” to governmental immunity under the governmental tort liability act, which states that all government agencies having jurisdiction over any highway must “maintain the highway in reasonable repair so that it is reasonably safe and convenient for public travel,” encompasses both vehicular and pedestrian travel. [M.C.L.A. § 691.1402\(1\)](#).

[25 Cases that cite this headnote](#)

[15] Highways**🔑 Defects or obstructions causing injury**

Pedestrian's allegation that she suffered serious ankle injuries when she stepped on cracked and broken pavement in roadbed of county road, by alleging that the dangerous or defective condition was in the improved portion of the road designed for vehicular travel, and not in a sidewalk, crosswalk, or other installation outside of the improved portion of the road designed for vehicular travel, properly pleaded so as to invoke the “highway exception” to governmental immunity under the governmental tort liability act. [M.C.L.A. § 691.1402\(1\)](#).

[22 Cases that cite this headnote](#)

[16] Highways**🔑 Nature and Grounds of Liability**

Simply falling within the “highway exception” to governmental immunity under the governmental tort liability act is not enough; after successfully pleading in avoidance of governmental immunity, a plaintiff still must prove a cause of action under traditional negligence principles. [M.C.L.A. § 691.1402\(1\)](#).

[7 Cases that cite this headnote](#)

[17] Automobiles**🔑 Places to which liability extends**

State and county road commissions' duties, under the “highway exception” to governmental

immunity under the governmental tort liability act, do not contemplate duties relating to conditions arising from points of hazard, areas of special danger, or parts integral to the highway, that are outside the actual roadbed, paved or unpaved, designed for vehicular travel. [M.C.L.A. § 691.1402\(1\)](#).

[38 Cases that cite this headnote](#)

[18] **Municipal Corporations**

🔑 [Statutory provisions](#)

Legislature's failure, when revising the governmental tort liability act three years after the Supreme Court's *Pick* decision that the "highway exception" to governmental immunity under the act left the state and county road commissions with duties with respect to traffic control devices, to revise the exception so as to remove duties with respect to traffic control devices, would not be treated as showing legislative intent through legislative acquiescence. [M.C.L.A. § 691.1402\(1\)](#).

[6 Cases that cite this headnote](#)

[19] **Statutes**

🔑 [Legislative silence, inaction, or acquiescence](#)

The doctrine of legislative acquiescence is a highly disfavored doctrine of statutory construction; sound principles of statutory construction require that courts determine the Legislature's intent from its words, not from its silence.

[4 Cases that cite this headnote](#)

[20] **Automobiles**

🔑 [Nature and Grounds of Liability](#)

Maintenance of an appropriate deference for, and application of, the public policy choices made by the Legislature, as reflected in the plain language of the statutory "highway exception" to governmental immunity under the governmental tort liability act, ensures that determinations regarding how to best allocate limited public

highway funds are left to the proper authorities. [M.C.L.A. § 691.1402\(1\)](#).

[5 Cases that cite this headnote](#)

[21] **Automobiles**

🔑 [Notices, warning signals, or lights](#)

The legislative process is the appropriate process for apportioning public funds for signage for highways, and the executive process, involving the road authorities of the state, is the appropriate process for determining the specific forms of signage necessary to produce safe highways.

[1 Cases that cite this headnote](#)

[22] **Courts**

🔑 [Previous Decisions as Controlling or as Precedents](#)

The Supreme Court does not lightly overrule existing precedent.

[1 Cases that cite this headnote](#)

[23] **Courts**

🔑 [Previous Decisions as Controlling or as Precedents](#)

Under the doctrine of "stare decisis," principles of law deliberately examined and decided by a court of competent jurisdiction should not be lightly departed.

[3 Cases that cite this headnote](#)

[24] **Courts**

🔑 [Erroneous or injudicious decisions](#)

Before the Supreme Court overrules a decision deliberately made, it should be convinced not merely that the case was wrongly decided, but also that less injury will result from overruling than from following it.

[3 Cases that cite this headnote](#)

[25] **Courts**

🔑 [Previous Decisions as Controlling or as Precedents](#)

The rule of stare decisis is not an inexorable command.

[Cases that cite this headnote](#)

[26] Courts

[🔑 Constitutional questions](#)

Courts

[🔑 Construction and operation of statutes](#)

A judicial tribunal is most strongly justified in its reversal of precedent when adherence to such precedent would perpetuate a plainly incorrect interpretation of the language of a constitutional provision or statute.

[2 Cases that cite this headnote](#)

[27] Automobiles

[🔑 Notices, warning signals, or lights](#)

Statutes providing that the state highway commission, local authorities, and county road commissions shall install, maintain, repair, or improve traffic control devices as they “deem necessary” are statutes recognizing discretion, rather than imposing a duty. [M.C.L.A. §§ 257.609\(a\), 257.610\(a\)](#).

[4 Cases that cite this headnote](#)

[28] Automobiles

[🔑 Notices, warning signals, or lights](#)

A traffic control device is not a “highway,” within the meaning of the governmental tort liability act's definition of a highway as including bridges, sidewalks, trailways, crosswalks, and culverts on the highway, but as not including alleys, trees, and utility poles. [M.C.L.A. § 691.1401\(e\)](#).

[3 Cases that cite this headnote](#)

[29] Automobiles

[🔑 Care required as to condition of way in general](#)

Automobiles

[🔑 Notices, warning signals, or lights](#)

The state and county road commissions' duty, under the “highway exception” to governmental immunity under the governmental tort liability act, is implicated only upon their failure to repair or maintain the actual physical structure of the roadbed surface, paved or unpaved, designed for vehicular travel, which in turn proximately causes injury or damage, and this duty does not include installation, maintenance, repair, or improvement of signage or road control devices; overruling *Pick v. Szymczak*, 451 Mich. 607, 548 N.W.2d 603. [M.C.L.A. § 691.1402\(1\)](#).

[57 Cases that cite this headnote](#)

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Opinion

MARKMAN, J.

I. INTRODUCTION

In these consolidated cases, we granted leave to once again consider the scope of the so-called “highway exception” to governmental immunity. [MCL 691.1402\(1\)](#); [MSA 3.996\(102\)\(1\)](#). Specifically, we must decide the extent, if any, to which the highway exception accords protection to pedestrians injured by a condition within the improved

portion of the highway designed for vehicular travel. Further, we must decide whether the highway exception creates a duty, with regard to the state and county road commissions, to install, maintain, repair, or improve traffic control devices, including traffic signs.¹

In *Ross v. Consumers Power Co (On Rehearing)*, 420 Mich. 567, 363 N.W.2d 641 (1984), this Court confronted and resolved conflicting case law defining the scope of governmental immunity. The *Ross* Court explained its goals in tackling the issue, and its approach, stating:

In resolving the questions presented by this [governmental immunity] act, our goal has been to create a cohesive, uniform, and workable set of rules which will readily define the injured party's rights and the governmental agency's liability. *149 We recognize that our case law on these questions is confused, often irreconcilable, and of little guidance to the bench and bar. We have made great efforts to reexamine our prior collective and individual views on this subject in order to formulate an approach which is faithful to the statutory language and legislative intent. Wherever possible and necessary, we have reaffirmed our prior decisions. The consensus which our efforts produce today should not be viewed as this Court's individual or collective determinations of what would be most fair or just or the best public policy. The consensus does reflect, however, what we believe the Legislature intended the law to be in this area. [*Id.* at 596, 363 N.W.2d 641.]

Ross, constituting a significant change in governmental immunity jurisprudence², held that the immunity conferred on governmental agencies is *broad*, with *narrowly* drawn exceptions. *Id.* at 618, 363 N.W.2d 641. The failure to consistently **707 follow *Ross*, specifically with regard to the interpretation and application of the highway exception, has precipitated an exhausting line of confusing and contradictory decisions. These decisions have created a rule of law that is virtually impenetrable, even to the most

experienced judges and legal practitioners.³ Further, these conflicting *150 decisions have provided precedent that both parties in highway liability cases may cite as authority for their opposing positions. This area of the law cries out for clarification, which we attempt to provide today.⁴

Accordingly, we return to a narrow construction of the highway exception predicated upon a close examination of the statute's plain language, rather than merely attempting to add still another layer of judicial gloss to those interpretations of the statute previously issued by this Court and the Court of Appeals. We believe that such an approach will maintain fidelity to the requirements set forth by the Legislature, while providing the lower courts with a clearer standard to follow when applying the highway exception in individual cases. However, we refuse to impose upon the people of this state our individual determinations of *151 proper public policy, relating to the availability of lawsuits arising from injuries on the public highways. Rather, we seek to faithfully construe and apply those stated public policy choices made by the Legislature when it drafted the statutory language of the highway exception.

Because prior decisions of this Court have improperly broadened the scope of the highway exception and provided a variety of contradictory and conflicting interpretations of this exception's statutory language, we believe it is impossible to avoid overruling some precedent, if we are to set forth a clear rule of law. While we emphasize that we do not lightly overrule existing precedent, we are duty-bound to overrule past decisions that depart from a narrow construction and application of the highway exception and the plain language of the statutory clause, especially when they directly disregard, and are inconsistent with, other decisions of this Court.

In *Nawrocki v. Macomb Co. Rd. Comm.*, we believe that the circuit court erred in granting summary disposition in favor of the governmental defendant. We hold **708 that the highway exception applies when a plaintiff's injury is proximately caused by a dangerous or defective condition of the improved portion of the highway designed for vehicular travel. We therefore reverse the decision of the Court of Appeals, which affirmed the circuit court, and remand to the circuit court for further proceedings consistent with this opinion. In *Evens v. Shiawassee Co. Rd. Comm'rs*, we hold that the state or county road commissions' duty, under the highway exception, does not extend to the installation, maintenance, repair, or improvement of traffic control

devices, including traffic signs, but *152 rather is limited exclusively to dangerous or defective conditions within the improved portion of the highway designed for vehicular travel; that is, the actual roadbed, paved or unpaved, designed for vehicular travel. We therefore reverse the decision of the Court of Appeals and reinstate the circuit court's grant of summary disposition in favor of defendant road commission.

II. FACTUAL BACKGROUND

A. NAWROCKI V. MACOMB CO. RD. COMM.

On May 28, 1993, plaintiff Rachel Nawrocki was a passenger in a truck driven by her husband. He parked the truck next to the curb on Kelly Road, in Macomb County,⁵ and Nawrocki exited from the passenger side onto the grass between the street curb and the sidewalk. She walked the length of the truck and stepped off the curb onto the paved roadway. Nawrocki allegedly stepped on cracked and broken pavement on the surface of Kelly Road and sustained serious injuries to her right ankle, necessitating several operations.

Nawrocki sued defendant Macomb County Road Commission,⁶ arguing that it negligently failed to maintain Kelly Road in reasonable repair and in a condition safe and convenient for public travel. The MCRC moved for summary disposition under MCR *153 2.116(C)(7) and (8), arguing that Nawrocki's claim was barred by governmental immunity because the highway exception did not apply to pedestrians. The circuit court initially denied the motion, relying on *Gregg v. State Hwy. Dep't*, 435 Mich. 307, 458 N.W.2d 619 (1990), for the proposition that pedestrians traveling on the improved portion of the highway designed for vehicular travel are covered by the highway exception. On the MCRC's motion for reconsideration, the circuit court granted summary disposition under MCR 2.116(C)(7), on the ground that pedestrians are covered by the highway exception only when their injuries resulted from vehicular accidents, relying on *Mason v. Wayne Co. Bd. of Comm'rs*, 447 Mich. 130, 135, n. 4, 523 N.W.2d 791 (1994).

Nawrocki appealed as of right to the Court of Appeals, which affirmed,⁷ in reliance on its previous opinion in *Suttles v. Dep't of Transportation*, 216 Mich.App. 166, 548 N.W.2d 671 (1996), a case subsequently remanded by this Court for further factual findings, *Suttles v. Dep't of*

Transportation, 457 Mich. 635, 578 N.W.2d 295 (1998). We granted Nawrocki's application for leave to appeal.⁸

B. EVENS V. SHIAWASSEE CO. RD. COMM'RS

On May 18, 1992, plaintiff Brian Evens sustained serious injuries in an automobile accident at the intersection of Newburg Road and Byron Road in *154 Shiawassee **709 County.⁹ Traffic on both northbound and southbound Byron Road was regulated by stop signs, posted on both the left and right sides of the roadway. Traffic on eastbound and westbound Newburg Road was not required to stop, but posted traffic signs warned of the approaching intersection. Both Newburg Road and Byron Road were posted with 55 MPH speed limit signs.

Evens was driving northbound on Byron Road at the time of his accident. After stopping at the stop signs, Evens entered the intersection, where he collided with a westbound car traveling on Newburg Road, which had the right of way.¹⁰ Evens sued defendant Shiawassee County Road Commissioners, arguing that they negligently failed to maintain the intersection in reasonable repair and in a condition safe and convenient for public travel. Specifically, Evens argued that the SCRC owed him a duty to install additional stop signs or traffic signals at the intersection.¹¹

The SCRC moved for summary disposition under MCR 2.116(C)(8) and (10), on two separate grounds. First, the SCRC argued that county road commissions could not be held liable for a failure to install traffic signs on the theory that signs are outside the improved portion of the highway designed for vehicular travel and are not covered by the highway exception. Second, the SCRC argued that Evens' intervening *155 negligence of failing to yield to oncoming traffic was the sole proximate cause of his accident, and that the SCRC was therefore relieved of liability. The circuit court granted summary disposition to the SCRC under MCR 2.116(C)(10), holding that the SCRC could not be liable for a failure to install traffic signs, in reliance on the Court of Appeals decision in *Pick v. Gratiot Co. Rd. Comm.*, 203 Mich.App. 138, 511 N.W.2d 694 (1993). The circuit court specifically rejected the SCRC's intervening negligence claim.

One year after the circuit court's grant of summary disposition, this Court released its opinion in *Pick v.*

Szymczak, 451 Mich. 607, 548 N.W.2d 603 (1996), which held that governmental agencies had a duty to provide traffic control devices or warning signs at points of special hazard. The Court of Appeals then reversed the circuit court in part,¹² relying on this Court's holding in *Pick*, and remanded the case with instructions to determine whether the intersection at issue was a point of special hazard. The Court of Appeals affirmed the trial court's denial of the SCRC's motion on the intervening negligence issue. We granted defendant SCRC leave to appeal.¹³

III. STATUTORY LANGUAGE

[1] [2] [3] [4] Governmental immunity is the public policy, derived from the traditional doctrine of sovereign *156 immunity, that limits imposition of tort liability on a governmental agency. *Ross, supra* at 621, 363 N.W.2d 641. Under the governmental tort liability act, M.C.L. § 691.1401 *et seq.*; MSA 3.996(101) *et seq.*, governmental agencies are immune from tort liability when engaged in a governmental function. Immunity from tort liability, as provided **710 by M.C.L. § 691.1407; MSA 3.996(107), is expressed in the broadest possible language—it extends immunity to all governmental agencies for *all* tort liability whenever they are engaged in the exercise or discharge of a governmental function. *Ross, supra* at 618, 363 N.W.2d 641. However, there are five statutory exceptions to governmental immunity.¹⁴ The Legislature's refusal to abolish completely governmental immunity, evidences a clear legislative judgment that public and private tortfeasors are to be treated differently:

“Government cannot merely be liable as private persons are for public entities are fundamentally different from private persons. Private persons do not make laws. Private persons do not issue and revoke licenses to engage in various professions and occupations. Private persons do not quarantine sick persons and do not commit mentally disturbed persons to involuntary confinement. Private persons do not prosecute and incarcerate violators of the law or administer prison systems. Only public entities are required to build and maintain thousands of miles of streets, sidewalks and highways. Unlike many private persons, a public entity cannot often reduce its risk of potential liability by refusing to engage in a particular activity, for government must continue to govern and is required to furnish services *157 that cannot be adequately

provided by any other agency. Moreover, in our system of government, decision-making has been allocated among three branches of government—legislative, executive and judicial—and in many cases decisions made by the legislative and executive branches should not be subject to review in tort suits for damages, for this would take the ultimate decision-making authority away from those who are responsible politically for making the decisions.” [*Ross, supra* at 618–619, 363 N.W.2d 641.]

Because immunity necessarily implies that a “wrong” has occurred, we are cognizant that some tort claims, against a governmental agency, will inevitably go unremedied. Although governmental agencies may be under many duties, with regard to services they provide to the public, only those enumerated within the statutorily created exceptions are legally compensable if breached. MCL 691.1407; MSA 3.996(107); *Ross, supra* at 618–619, 363 N.W.2d 641.

These consolidated cases involve the highway exception, M.C.L. § 691.1402(1); MSA 3.996(102)(1), which provided:¹⁵

Each governmental agency having jurisdiction over any highway shall maintain the highway in reasonable repair so that it is reasonably safe and convenient for public travel. Any person sustaining bodily injury or damage to his or her property by reason of failure of any governmental agency to keep any highway under its jurisdiction in reasonable repair, and in condition reasonably safe and fit for travel, may recover the damages suffered by him or her from the governmental agency. The liability, procedure and remedy *158 as to county roads under the jurisdiction of a county road commission shall be as provided in section 21 of chapter IV of Act No. 283 of the Public Acts of 1909, as **711 amended, being section 224.21 of the Michigan Compiled Laws. The duty of the state and the county road commissions to repair and maintain highways, and the liability therefor, shall extend only to the improved portion of the highway designed for vehicular travel and shall not include sidewalks, crosswalks, or any other installation outside of the improved portion of the highway designed for vehicular travel.

[5] There is one basic principle that must guide our decision today: the immunity conferred upon governmental agencies is *broad*, and the statutory exceptions thereto are to be *narrowly* construed. *Robinson v. Detroit*, 462 Mich. 439, 455; 613 N.W.2d 307 (2000); *Suttles*, 457 Mich. at 641, 578 N.W.2d 295; *Horace v. Pontiac*, 456 Mich. 744, 749, 575 N.W.2d 762

(1998); *Wade v. Dep't of Corrections*, 439 Mich. 158, 166, 483 N.W.2d 26 (1992); *Reardon v. Dep't of Mental Health*, 430 Mich. 398, 411, 424 N.W.2d 248 (1988); *Ross, supra* at 618, 363 N.W.2d 641.¹⁶

[6] The highway exception waives the absolute immunity of governmental units with regard to defective highways under their jurisdiction. However, when the Legislature codified governmental immunity in 1964, it specifically reduced the purview of the highway exception in M.C.L. § 691.1402; MSA 3.996(102) from the broad approach previously taken. *Suttles*, 457 Mich. at 644, 578 N.W.2d 295. Because subsection 2(1) is a narrowly drawn exception to a broad grant of immunity, there must be strict compliance with the conditions and restrictions *159 of the statute. *Scheurman v. Dep't of Transportation*, 434 Mich. 619, 629–630, 456 N.W.2d 66 (1990). Thus, we are compelled to strictly abide by these statutory conditions and restrictions in deciding the instant cases.

[7] [8] Moreover, when reviewing questions of statutory construction, our purpose is to discern and give effect to the Legislature's intent. *Murphy v. Michigan Bell Telephone Co.*, 447 Mich. 93, 98, 523 N.W.2d 310 (1994). We begin by examining the plain language of the statute. It is a fundamental principle of statutory construction that the words used by the Legislature shall be given their common and ordinary meaning, and only where the statutory language is ambiguous may we look outside the statute to ascertain the Legislature's intent. *Turner v. Auto Club Ins. Ass'n*, 448 Mich. 22, 27, 528 N.W.2d 681 (1995).

The structure of M.C.L. § 691.1402(1); MSA 3.996(102) (1) is critical to its meaning. Thus, we begin by observing that the first and second sentences of the highway exception clause apply to all governmental agencies having jurisdiction over any highway. In contrast, the third and fourth sentences address more specifically the duty and resulting liability of the state and county road commissions. Therefore, while we are constrained to construe the highway exception as a whole,¹⁷ it is necessary to parse each sentence of the statutory clause to ascertain the scope of the exception, as determined by the stated policy considerations of the Legislature.

[9] *160 The first sentence of the statutory clause, crucial in determining the scope of the highway exception, describes the basic duty imposed on all governmental agencies, including the state, having jurisdiction over any highway: “[to] maintain the highway in reasonable repair so that

it is reasonably safe and convenient for public travel.” This sentence establishes the duty to keep the highway in reasonable repair. The phrase “so that it is reasonably safe and convenient for public travel” **712 refers to the duty to maintain and repair. The plain language of this phrase thus states the desired outcome of reasonably repairing and maintaining the highway; it does not establish a second duty to keep the highway “reasonably safe.” *Pick, supra* at 635–636, 548 N.W.2d 603 (RILEY, J., dissenting).

The second sentence describes those persons who may generally recover damages when injured by a breach of the duty created by the *first* sentence: “[a]ny person sustaining bodily injury or damage to his or her property by reason of failure of any governmental agency to keep any highway under its jurisdiction in reasonable repair, and in condition reasonably safe and fit for travel....”¹⁸

*161 The third sentence of the statutory clause specifically addresses the duty and resulting liability of county road commissions, as opposed to the state and other governmental agencies with highway jurisdiction. This sentence provides that the “liability, procedure and remedy as to county roads under the jurisdiction of a county road commission” is provided by M.C.L. § 224.21; MSA 9.121. At the time in question, M.C.L. § 224.21; MSA 9.121 provided, in pertinent part:

It is hereby made the duty of the counties to keep in reasonable repair, so that they shall be reasonably safe and convenient for *public travel*, all county roads, bridges and culverts that are within their jurisdiction and under their care and control and which are open to *public travel*. [Emphasis added.]¹⁹

[10] [11] The fourth sentence of the statutory clause, specifically applicable to the state and county road commissions, proceeds to narrowly limit the general duty to repair and maintain, created by the *first* sentence, “only to the improved portion of the highway designed for vehicular travel.” Further, this sentence expressly provides that the limited duty does *not* extend to “sidewalks, crosswalks, or any other installation outside of the improved portion of the highway designed for vehicular travel.” We believe the plain *162 language of this sentence definitively limits the state and county road commissions' duty with respect to the

location of the alleged dangerous or defective condition; if the condition is not located in the actual roadbed designed for vehicular travel, the narrowly drawn highway exception is inapplicable and liability does not attach.

A. PEDESTRIANS

[12] The facts of *Nawrocki v. Macomb Co. Rd. Comm.* require us to apply these principles to determine whether the statutory language of the highway exception imposes a duty on the state and county road commissions to protect pedestrians from dangerous or defective conditions in ****713** the improved portion of the highway designed for vehicular travel, even when injury does not arise as a result of a vehicular accident. We conclude that it does.²⁰

The MCRC argues that, as a general rule, pedestrians are excluded from the protection of the highway exception. It contends that, even if pedestrians are not excluded as a general rule, they may benefit from the highway exception only when the improved portion of the highway is not reasonably safe for *vehicular* travel, as opposed to pedestrian travel.

We believe, however, that pedestrians may recover damages from the state or county road commission for personal injuries and property damage, the same as all other persons, when such injury or damage is ***163** proximately caused by a failure of the state or county road commission to carry out its duty to repair and maintain the narrowly defined location prescribed by the fourth sentence of the statutory clause: the “improved portion of the highway designed for vehicular travel.”

There are four recent opinions of this Court that discuss whether, or to what extent, the highway exception extends to pedestrians: *Roy v. Dep't of Transportation*, 428 Mich. 330, 408 N.W.2d 783 (1987), *Gregg, Mason*, and *Suttles*, *supra*. This Court's decisions in these cases have interpreted the statutory language in conflicting and confusing ways.

First, *Roy* involved a plaintiff riding a bicycle on a bicycle path parallel to, but separate from, the roadway actually used by vehicular traffic. The plaintiff suffered injuries when his bicycle struck a bump on the asphalt path. This Court concluded that the plaintiff was not protected by the highway exception because the bicycle path at issue was an “installation.” The *Roy* Court concluded, on the basis of its review of the statutory language, that the Legislature

chose not to impose a duty of maintenance or repair on governmental agencies on behalf of pedestrians or bicyclists traveling *outside* the improved portion of the highway. This legislative intent was demonstrated by the exclusionary language contained in the fourth sentence of the statute, which indicates that pedestrians traveling in such locations are adequately protected by their separation from vehicular traffic. *Id.* at 336, 408 N.W.2d 783. With regard to pedestrians traveling on the improved portion of the highway designed for vehicular travel, this Court explained that the location of the alleged defect was the critical factor in determining ***164** whether the highway exception applied to a particular plaintiff's case:

Indeed, the statute does not offer general protection to pedestrians or motorists *without regard to location*. ... The criterion used by the Legislature was not based on the class of travelers, but the road on which they travel. [*Id.* at 341, 408 N.W.2d 783 (emphasis added).]

The next case in which this Court discussed the application of the highway exception to pedestrians, *Gregg*, involved a plaintiff riding a bicycle on a bicycle path immediately adjacent to the paved roadway, who suffered injuries when his bicycle struck a pothole.²¹ The *Gregg* Court again focused on whether the bicycle path at issue was an “installation,” but determined that it was not, because it was located on “the inner portion of the shoulder closest to the roadway.” *Id.* at 310, 458 N.W.2d 619. The defendant in *Gregg* argued that nonmotorists, as a class, are not protected by the highway exception. This Court rejected that argument in reliance on the “[a]ny person” language of the ****714** statute's second sentence, concluding that the plaintiff fell within the general class of travelers protected by the highway exception. *Id.* at 311, 458 N.W.2d 619.

The third case, *Mason*, involved a child struck by a car while crossing the street at the crosswalk. Once again focusing on the “installation” exclusion, this Court held that the statute excluded “specific installations whose only rational purposes narrowly service the unique needs of pedestrians,” *id.* at 136, 523 N.W.2d 791, and indicated ***165** a legislative “conclusion that pedestrians and users of these installations have been sufficiently protected by the separation of them from motorists, without any need to impose a duty of

maintenance and repair enforced by liability for resultant injuries.” *Id.* at 137, 523 N.W.2d 791.

The explicit removal of exclusively pedestrian installations from the highway exception, coupled with the express language of the provision itself, permits but one conclusion: Pedestrians who trek upon Michigan highways must and do venture beyond the protective mandates of M.C.L. § 691.1402(1); MSA 3.996(102)(1).... Pedestrians are situated differently than vehicular traffic, which may approach obstacles in the highway too quickly to avoid them, or may avoid obstacles only by jeopardizing traffic in the adjoining lanes. [*Id.* at 137–138, 523 N.W.2d 791.]

The fourth case, *Suttles*, involved a pedestrian who, like Nawrocki, sustained injuries when stepping out of a parked car.²² This Court did not decide whether the plaintiff was entitled to the protections of the highway exception, but remanded for a factual determination of the exact location where she fell. 457 Mich. at 651–652, 578 N.W.2d 295. However, the *Suttles* Court stated that “[a] review of M.C.L. § 691.1402(1); MSA 3.996(102)(1) and previous decisions of this Court” necessitated a conclusion that pedestrians may come within the highway exception. 457 Mich. at 645, 578 N.W.2d 295.²³

*166 These cases exemplify the confusing and inconsistent nature of the case law discussing the highway exception, which we acknowledged at the outset of this opinion. The case law fails to consistently adhere to the basic principle found in *Ross* or to a single interpretation of the statutory language, thereby also necessarily failing to establish a clear rule of law describing what protections, if any, the highway exception accords to pedestrians. While *Mason* did not expressly overrule *Gregg*, it can fairly be read as an implicit rejection of *Gregg*'s holding that pedestrians, as a subset of the class of “[a]ny person sustaining bodily injury or damage to his or her property,” are *always* protected by the highway exception. In contrast, *Mason* can fairly be read for the proposition that pedestrians are *never* protected by the highway exception.

As a consequence, parties like Nawrocki will typically cite *Roy* or *Gregg* for the proposition that pedestrians may recover under the highway exception because the state or county road commissions' duty is determined not by the identity of the injured person, but by the area on which the person traveled. Simultaneously, defendants like the MCRC will cite *Mason* for the proposition that pedestrians are simply not protected by the highway exception. These conflicting decisions must be resolved, in a manner that faithfully interprets and applies the statutory language drafted by the Legislature and adheres to **715 the narrow construction of the highway exception as required by *Ross*.

Unquestionably, it is the language used by the Legislature in drafting this statutory clause that has created much of the continuing confusion regarding *167 whether pedestrians injured on public highways may avail themselves of the protection afforded by the highway exception. For example, the judiciary has struggled with the language contained in the fourth sentence of M.C.L. § 691.1402(1); MSA 3.996(102)(1), regarding “sidewalks, crosswalks, or any other installation outside of the improved portion of the highway designed for vehicular travel.”²⁴

While any number of interpretations of the highway exception might be—and have been—argued,²⁵ ultimately *168 it is this Court's obligation to set forth what we believe to be the most plausible construction of the statutory language in controversy, and, at the same time, construe the highway exception in accordance with the interpretative principles of *Ross*.

[13] Thus, we agree with *Roy* that the *location* of an alleged dangerous or defective condition, as narrowly defined in the fourth sentence of the statutory clause, is the critical factor in determining whether a plaintiff is successful in pleading in avoidance of governmental immunity under the highway exception. Moreover, given the Legislature's use of language in the statutory clause, we believe *Gregg* properly relied on the “[a]ny person” language of the statute's second sentence to hold that pedestrians are protected by the highway exception, and that the words “designed **716 for vehicular travel” serve to define and describe the “improved portion of the highway”; in other words, the *location* where the state and county road commissions' duty arises.

However, we are convinced that *Mason* erred in rejecting any reliance on the “[a]ny person” language, *169 and in determining that the words “designed for vehicular

travel” “permit[] but one conclusion: Pedestrians who trek upon Michigan highways must and do venture beyond the protective mandates of M.C.L. § 691.1402(1); MSA 3.996(102)(1).” *Mason, supra* at 137, 523 N.W.2d 791.²⁶ In our view, this conclusion ignores the implication of the first and third sentences of the statutory clause, both of which impose a duty upon the state and county road commissions to repair and maintain highways so that they are “reasonably safe and convenient for *public* travel,” and results in a much too narrow construction of the statutory clause, thereby completely removing pedestrians from the protection afforded by the highway exception. Moreover, we are convinced that *Mason* further complicated matters by stating that a pedestrian *may* recover under the highway exception, but only for injuries that result from a vehicular accident. *Id.* at 135, n. 4, 523 N.W.2d 791. This proposition, set forth as dicta in *Mason*, is inconsistent with the statutory language of the highway exception.

While it is true that the second sentence of M.C.L. § 691.1402(1); MSA 3.996(102)(1) generally allows “any person” to recover damages from a governmental agency with highway jurisdiction, the fourth sentence of the statutory clause specifically limits the state and county road commissions' duty, and resultant liability for breach of this duty, “only to the improved portion of the highway designed for vehicular travel.” The plain language of this sentence, though limiting the *170 duty and resultant liability, does not expressly exclude any particular *class* of injured traveler from recovering damages under the highway exception. Thus, we believe that pedestrians who sue the state or a county road commission are not automatically and entirely excluded, as a class, from the protections of the statutory clause.

The general description of the state's duty, with regard to the highway exception, is established by the first sentence of the statutory clause:

Each governmental agency having jurisdiction over any highway shall maintain the highway in reasonable repair so that it is reasonably safe and convenient for *public* travel. [Emphasis added.]

The general description of a county road commission's duty, with regard to the highway exception, is referenced in the third sentence of the statutory clause, as set forth in M.C.L. § 224.21; MSA 9.121:

It is hereby made the duty of the counties to keep in reasonable repair, so that they shall be reasonably safe and convenient for *public* travel, all county roads, bridges and culverts that are within their jurisdiction and under their care and control and which are open to *public* travel. [Emphasis added.]

Thus, a county road commission's duty is coextensive with that owed by other governmental agencies, including the state, under the first two sentences of the highway exception clause. However, it is the fourth sentence of the highway exception that expressly limits the duty of the state and county road commissions, the breach of which permits avoidance of governmental immunity,

*171 only to the improved portion of the highway designed for vehicular travel and shall not include sidewalks, crosswalks, **717 or any other installation outside of the improved portion of the highway designed for vehicular travel. [MCL 691.1402(1); MSA 3.996(102)(1).]

[14] Constrained to apply the statutory language as best as possible as written, we are persuaded that the exclusionary language of the fourth sentence of the statutory clause narrows the duty of both the state and county road commissions with regard to the *location* of the dangerous or defective condition, not to the *type* of travel *or* traveler. The phrase “designed for vehicular travel” modifies the prior phrase “improved portion of the highway” and thus defines the location to which the duty of the state and county road commissions extends. Thus, if the condition proximately causing injury or property damage is located in the improved portion of the highway designed for vehicular travel, not otherwise expressly excluded, the state or county road commissions' statutory duty under the highway exception is implicated and a plaintiff is capable of pleading in avoidance of governmental immunity.²⁷ Moreover, because the state and county road commissions must “repair and maintain” their respective highways and roads so that they are “reasonably safe and convenient for public *172 travel,” and because we believe “public travel” encompasses *both* vehicular and pedestrian travel, the plain language of the highway exception cannot be construed to afford protection only when a dangerous or defective condition “of the

improved portion of the highway designed for vehicular travel” affects *vehicular* travel.²⁸

[15] [16] Applying these principles to *Nawrocki*, we conclude that the circuit court erred in granting summary disposition to the MCRC. By alleging that she was injured by a dangerous or defective condition of the improved portion of the highway designed for vehicular travel, and not a sidewalk, crosswalk, or “any other installation outside of the improved portion of the highway designed for vehicular travel,” *Nawrocki* pleaded in avoidance of governmental immunity. We therefore reverse the judgment of the Court of Appeals and remand to the circuit court for further proceedings consistent with this opinion.²⁹

B. TRAFFIC SIGNS AND SIGNALS

The facts of *Evens v. Shiawassee Co. Rd. Comm'rs* require us to apply the statutory language of the highway *173 exception to determine whether the state or a county road commission has a duty to install, maintain, repair, or improve traffic control devices, including traffic signs.

Subsequent to *Wechsler v. Wayne Co. Rd. Comm.*, 215 Mich.App. 579, 546 N.W.2d 690 (1996), remanded **718 455 Mich. 863, 567 N.W.2d 252 (1997), a case assuming, without deciding, that the highway exception to governmental immunity created some level of duty with regard to posting traffic signs, this Court expressly held that “a duty to provide adequate warning signs or traffic control devices at known points of hazard arises under the highway exception of the governmental tort liability act. MCL 691.1402; MSA 3.996(102).” *Pick, supra* at 619, 548 N.W.2d 603. In *Pick*, the plaintiff was injured in a collision at an intersection of two roads under the jurisdiction of the Gratiot County Road Commission. At issue on appeal was whether the highway exception created a duty within county road commissions to install signs and other traffic control devices at “known points of hazard” associated with the improved portion of the highway and whether visual obstructions located on private property adjacent to the highway imposed liability on a county road commission. In *Pick*, the Court of Appeals affirmed the circuit court's grant of summary disposition to the defendant and, quoting *Scheurman, supra*, stated:

“What is not so clear is whether the improved portion of the highway includes improvements that serve as integral parts of the highway, such as signs and shoulders.

([Citations omitted.] If there is an ‘integral parts of the highway’ exception under the broad concept of ‘traffic sign maintenance’ that includes erecting signs or warning devices at points of hazard, it appears to conflict with the very narrow definition of duty that excluded street lighting in *Scheurman*. *174 Because we can find no way to distinguish between street lighting and traffic signs, and because both have their physical structure outside the traveled or paved portion of the roadbed, we must conclude that the defendant is not subject to liability for the alleged lack of adequate traffic signs at the intersection of Roosevelt and Crapo Roads.” [*Pick, supra* at 613–614, 548 N.W.2d 603.]

Pick determined that the ruling of the circuit court, and the Court of Appeals affirmance of that ruling, were “erroneous as a matter of law.” *Id.* at 615, 548 N.W.2d 603. The majority believed that *Scheurman* “[did] not establish authoritative precedent for any such ‘very narrow definition of duty’ and that, in any event, the statutory language of the highway exception, read in its entirety, does not support such a narrow definition.” *Id.* at 616, 548 N.W.2d 603.

Amicus curiae Michigan Department of Transportation urges this Court to overrule *Pick* and hold that the statute imposes no duty on the state and county road commissions to install traffic signs, on the theory that signs are outside the improved portion of the highway designed for vehicular travel, which connotes merely the physical surface of the road. In light of the broad reading of the highway exception by this Court in *Pick*, and the plain language used by the Legislature in setting forth this exception, we feel compelled to accept the amicus' invitation and overrule *Pick*.

We believe that a broad, rather than a narrow, reading of the highway exception is required in order to conclude that it is applicable to anything but the highway itself. See *Horace, supra*. In *Pick*, this Court stated that “a bright-line rule ... that limits governmental responsibility for public roadways to factors *175 that are physically part of the roadbed itself” would require “an improperly stringent reading of the highway exception.” *Id.* at 621, 548 N.W.2d 603. This statement evidences a departure from the interpretative principle of *Ross*. In ostensibly stating a more “workable principle” for applying the highway exception, *Pick* resulted in a complete abrogation of this Court's duty to *narrowly* construe exceptions to the *broad* grant of immunity. Because *Pick* entails such a broad reading of the highway exception, and thus disregards the basic principle of *Ross*, we believe that

it must be overruled if we are to have any hope of restoring a ****719** stable rule of law in this difficult area of the law. *Robinson, supra* at 445; 467, 613 N.W.2d 307; *Horace, supra* at 750, n. 3, 575 N.W.2d 762.

Further, although *Pick* determined that the “statutory language of the highway exception itself, read in its proper context, is fully adequate for resolution of the precise legal question before us in this case,” *id.* at 620, 548 N.W.2d 603, we are convinced that its holding *cannot* be supported by the plain language of the statutory clause. In attempting to place its interpretation of the statute in the “proper context,” *Pick* failed to simply apply the plain language of the highway exception and, instead, relied on judicially invented phrases nowhere found in the statutory clause, thus thrusting upon the state and county road commissions a duty not contemplated by the Legislature.³⁰ *Pick* unacceptably ***176** departed from the plain language of the statute, thus allowing a plaintiff to avoid governmental immunity for conditions arising at “point[s] of hazard,” affecting travel on the surface of the improved portion of the highway, regardless of whether those conditions originated on the surface of the roadbed or not:

Such an expansive interpretation of [the highway exception] goes far beyond that which section 2 provides. The statute provides that [the waiver of immunity under the highway exception] “shall extend only to the improved portion of the highway [designed for vehicular travel],” it does not contemplate “conditions, the source of which do not originate on the surface of the roadbed....” [*Scheurman, supra* at 631, n. 22, 456 N.W.2d 66.]³¹

[17] While we agree with *Pick* that the first sentence of the statutory clause establishes a general duty to repair and maintain highways so that they are reasonably safe and convenient for public travel, this duty, with regard to the state and county road commissions, is significantly limited, extending “only to the improved portion of the highway designed for vehicular travel.” MCL 691.1402(1); MSA 3.996(102)(1) (emphasis added). Nowhere in this language, or anywhere else in the statutory clause, do phrases such as “known points of hazard,” “points of special danger,” “integral parts of the highway,” or “traffic sign maintenance” appear.³² We are not persuaded that the highway ***177** exception contemplates “conditions” arising from “point[s] of hazard,” “areas of special danger,” or “integral parts of the highway,” outside the actual roadbed, paved or unpaved, designed for vehicular travel. None of these phrases or ****720** concepts appears anywhere within the provisions of

the highway exception. To continue to rely upon these phrases in determining the scope of the highway exception is contrary to the language selected by the Legislature in creating this exception.

[18] [19] Unless we construe the highway exception narrowly, as mandated by *Ross*, and in accordance with the language of the statutory clause, every accident and every injury, occurring on an otherwise unexceptional highway, containing no dangerous or defective conditions in the actual roadbed itself, will become the potential basis for a lawsuit against the state or county road commissions. This is an extraordinary proposition not contemplated, in our judgment, by the Legislature's narrowly drawn highway exception.³³ ***178** For example, under *Pick*, a plaintiff may sue the state or a county road commission, and plausibly argue that

- there should have been yield signs along a highway instead of no signs;
- there should have been stop signs along a highway instead of yield signs;
- there should have been a flashing yellow/red traffic light along a highway instead of stop signs;
- there should have been a fully functional red/yellow/green traffic signal along a highway instead of a flashing yellow/red light;
- there should have been an overpass above a highway, thus eliminating the need for traffic signals altogether;
- there should have been a 25 MPH sign, instead of a 30 MPH sign, nearing an approach to an intersection; or
- there should have been a left turn lane where none existed.³⁴

[20] [21] ***179** There is potentially no end to the creative and innovative theories that can be raised in support of the proposition that a highway accident, occurring upon even the most unremarkable thoroughfare, was, in fact, the result of inadequate or imperfect signage. Courts possess no greater insight than the state or county road commissions into matters involving traffic control devices, such as traffic signs. ****721** Maintenance of an appropriate deference for, and application of, the public policy choices made by the Legislature, as reflected in the plain language of the statutory highway

exception, ensures that determinations regarding how to best allocate limited public highway funds are left to the proper authorities.³⁵

Because we are persuaded that the state and county road commissions' duty, imposed by the highway *180 exception clause, is only to repair and maintain “the improved portion of the highway designed for vehicular travel,” M.C.L. § 691.1402(1); MSA 3.996(102)(1), we hold that the actual language of this statutory clause sets forth an exception that encompasses only the “traveled portion, paved or unpaved, of the roadbed actually designed for public vehicular travel.” *Scheurman, supra* at 631, 456 N.W.2d 66.

[22] [23] [24] [25] [26] We are thus compelled to overrule *Pick* because it fails to narrowly construe the highway exception and contradicts the language of the statute, imposing upon state and county road commissions a duty under the highway exception to install, maintain, repair, or improve traffic control devices, including traffic signs. Yet, we wish to make clear that we do not lightly overrule existing precedent. In *People v. Graves*, 458 Mich. 476, 480–481, 581 N.W.2d 229 (1998), this Court recently discussed the proper circumstances under which it would overrule prior case law:

It is true of course that we do not lightly overrule a case. This Court has stated on many occasions that “[u]nder the doctrine of stare decisis, principles of law deliberately examined and decided by a court of competent jurisdiction should not be lightly departed.” Further, ... “[b]efore this court overrules a decision deliberately made, it should be convinced not merely that the case was wrongly decided, but also that less injury will result from overruling than from following it.” When it becomes apparent that the reasoning of an opinion is erroneous, and that less mischief will result from overruling the case rather than following it, it becomes the duty of the court to correct it. Although we respect the principle of stare decisis, we also recognize the common wisdom that the rule of stare decisis is not an inexorable command. [Citations omitted.]

*181 As we recently explained in *Robinson, supra*, a judicial tribunal is most strongly justified in its reversal of precedent when adherence to such precedent would perpetuate a plainly incorrect interpretation of the language of a constitutional provision or statute. *Id.* at 463-468.

[27] We are confident that our holding today is also reinforced by the fact that the duty implicating the installation, maintenance, repair, or improvement of traffic

signs is expressly created under statutes separate from the highway exception. For example, M.C.L. § 257.609(a); MSA 9.2309(a) provides:

The state highway commission shall place or require to be placed and maintain or require to be maintained such traffic-control devices, conforming to said manual and specifications, upon all state highways as it shall deem necessary to indicate and to carry out the **722 provisions of this chapter or to regulate, warn or guide traffic. [Emphasis added.]

Further, M.C.L. § 257.610(a); MSA 9.2310(a) states:

Local authorities and county road commissions in their respective jurisdictions shall place and maintain such traffic control devices upon highways under their jurisdiction as they may deem necessary to indicate and to carry out the provisions of this chapter or local traffic ordinances or to regulate, warn or guide traffic. All such traffic control devices hereafter erected shall conform to the state manual and specifications. [Emphasis added.]

[28] Subsections 609(a) and 610(a) describe the state and county road commissions' “duty” regarding traffic control devices, obviously implicating traffic signs, in terms of what each agency “deems necessary.” This is the language of discretion, not the imposition of a *182 duty, the breach of which subjects the agencies to tort liability—as opposed, perhaps, to political liability.³⁶ Clearly, *Pick* undermines the exercise of judgment properly accorded to the state and county road commissions by imposing a duty on them that has no basis under the plain statutory language of the highway exception, or, for that matter, the governmental immunity statute as a whole.³⁷

*183 We are convinced that *Pick*, and those cases relying on its analysis and outcome, disregards the basic principle of *Ross* and contradicts the plain language of the highway exception. Therefore, allowing *Pick* to stand, in our judgment,

would perpetuate the lack of a principled and consistent application of the law and would permit the continuation of a heightened ****723** potential for arbitrary, inconsistent, and highly confused decision making in personal injury or property damage cases involving the state or county road commissions. Such results would be contrary to the statute, undermine other important case law, and impose far more injury upon the judicial process than any effect associated with our decision to apply the policy decisions of the Legislature instead of the policy decisions of this Court in *Pick*.

[29] The state and county road commissions' duty, under the highway exception, is only implicated upon their failure to repair or maintain the actual physical structure of the roadbed surface, paved or unpaved, designed for vehicular travel, which in turn proximately causes injury or damage. *Scheurman, supra* at 631, 456 N.W.2d 66. A plaintiff making a claim of inadequate signage, like a plaintiff making a claim of inadequate street lighting or vegetation obstruction, fails to plead in avoidance of governmental immunity because signs are not within the paved or unpaved portion of the roadbed designed for vehicular travel. Traffic device claims, such as inadequacy of traffic signs, simply do ***184** not involve a dangerous or defective condition in the improved portion of the highway designed for vehicular travel.

Evens argues that the SCRC failed to install additional traffic signs or signals that might conceivably have made the intersection safer. Because the highway exception imposes no such duty on the state or county road commissions, we reverse the decision of the Court of Appeals and reinstate the trial court's grant of summary disposition to the SCRC.

IV. CONCLUSION

With regard to the state and county road commissions, we hold that a pedestrian is entitled to the protections of the highway exception, the same as all other persons, when injuries are proximately caused by the defendant's failure to repair and maintain the improved portion of the highway designed for vehicular travel so that it is reasonably safe and convenient for public travel.

Additionally, we hold that the state or county road commissions have no duty, under the highway exception, to install, maintain, repair, or improve traffic control devices, including traffic signs. Rather, the state and county road

commissions' duty, the breach of which invokes the highway exception, is limited exclusively to dangerous or defective conditions within the actual roadway, paved or unpaved, designed for vehicular travel.

WEAVER, C.J., and **TAYLOR, CORRIGAN**, and **YOUNG, JJ.**, concurred with **MARKMAN, J.**

***185** APPENDIX

STATUTORY FRAMEWORK

The statutory highway exception imposes a duty on the state and county road commissions to repair and maintain “only ... the improved portion of the highway designed for vehicular travel,” so that it is “reasonably safe and fit for travel.” **MCL 691.1402(1)**; MSA 3.996(102)(1). Expressly excluded from this duty are “sidewalks, crosswalks, or any other installation outside of the improved portion of the highway designed for vehicular travel.” **MCL 691.1402(1)**; MSA 3.996(102)(1).

PEDESTRIANS

Under the “[a]ny person” language of **M.C.L. § 691.1402(1)**; MSA 3.996(102)(1), pedestrians fall within the general class of travelers protected by the highway exception.

The plain language of the highway exception definitively limits the state and county road commissions' duty with respect to the *location* of the alleged dangerous or defective condition; if the condition is not located in the actual roadbed designed for vehicular travel, the narrowly drawn highway exception is inapplicable and liability does not attach. **MCL 691.1402**; MSA 3.996(102).

****724** TRAFFIC SIGNS AND SIGNALS

The state and county road commissions' duty, under the highway exception, is only implicated upon their failure to repair or maintain the actual physical structure of the roadbed surface, paved or unpaved, designed for vehicular travel, which in turn proximately causes injury or damage. This does not include signage. **MCL 691.1402**; MSA 3.996(102).

The highway exception does not contemplate conditions arising from “point[s] of hazard,” “areas of special danger,” or “parts integral to the highway,” that are outside the actual

roadbed, paved or unpaved, designed for vehicular travel. [MCL 691.1402](#); [MSA 3.996\(102\)](#).

***186** [MARILYN J. KELLY, J.](#) (*concurring in part and dissenting in part*).

I concur with the majority's disposition of *Nawrocki v. Macomb Co Rd Comm*. But I cannot join its decision in *Evens v. Shiawassee County Road Commissioners*.

In the *Evens* case, the majority again decides that a well-reasoned precedent of this Court must give way to its own interpretation of a Michigan statute. [MCL 691.1402\(1\)](#); [MSA 3.996\(102\)\(1\)](#). I find the majority's analysis badly flawed.

I. NAWROCKI V. MACOMB COUNTY ROAD COMMISSION

In *Nawrocki v. Macomb Co Rd Comm*, the trial court relied on obiter dictum from *Mason v. Wayne Co. Bd. of Comm'rs*¹ to conclude that the highway exception to governmental immunity does not protect pedestrians, unless their injuries result from vehicular accidents. In so holding, the trial court ignored this Court's ruling in *Gregg v. State Hwy. Dep't*, [435 Mich. 307](#), [458 N.W.2d 619](#) (1990).

In *Mason*, the ten-year-old plaintiff entered a roadway near his school and, while in the intersection, was struck by a vehicle running a red light. *Id.* at 132–133, [523 N.W.2d 791](#). He sued the Wayne County Board of Commissioners to recover for his injuries on the theory that the board should have provided signs warning drivers that a school was nearby. *Id.* This Court found that the highway exception did not apply and that the plaintiff's suit was barred by governmental immunity. *Id.* at 138, [523 N.W.2d 791](#). The holding was based on a finding that “[t]he highway exception specifically excepts the state and counties from liability for defects in crosswalks, ***187** the defect alleged by the plaintiff...” *Id.* at 135, [523 N.W.2d 791](#).

In a footnote in *Mason*, this Court stated:

It is true that “[a]ny person” may recover, but only for injuries that result from vehicular accidents. If a defect in the improved portion of the highway causes a traffic accident, any person injured as a result of that accident may recover, including injured passengers

or pedestrians, if any, and the owner of the vehicle. [*Id.* at 135, n. 4, [523 N.W.2d 791](#).]

The issue in *Mason* was whether the highway exception applies to a pedestrian injured in a crosswalk, not whether pedestrians in other locations can recover under the exception. Therefore, I regard footnote 4 as mere dictum.

In *Gregg*, however, the defendant argued that the highway exception did not apply to nonmotorists.² *Id.* at 310–311, [458 N.W.2d 619](#). We rejected the argument because the highway exception expressly includes “any person sustaining bodily injury or damage to his property....” *Id.* at 311, [458 N.W.2d 619](#). Thus, *Gregg* stands for the proposition that the highway exception allows injured pedestrians ****725** and the occupants of motor vehicles to recover. The injuries must have been caused by the failure of county road commissions or the state to maintain the improved portion of a highway designed for vehicular travel.

In this case, the trial court erred when it rejected the holding of *Gregg* in favor of dictum from *Mason*. I agree with the majority that the trial court should not ***188** have granted the defendant's motion for summary disposition.

II. EVENS V. SHIAWASSEE COUNTY ROAD COMMISSIONERS

However, I disagree with the conclusion in *Evens* that [M.C.L. § 691.1402\(1\)](#); [MSA 3.996\(102\)\(1\)](#) establishes an exception to governmental immunity involving only traveled portions of a roadbed actually designed for vehicular travel. This interpretation is myopic in that it fails to place [M.C.L. § 691.1402\(1\)](#); [MSA 3.996\(102\)\(1\)](#) in its proper statutory framework. It is erroneous, also, because the majority inserts its own meaning of the words “improved portion of the highway designed for vehicular travel.”

A. The Words “Improved Portion of the Highway Designed for Vehicular Travel” Refer to More Than Just the Roadbed

Had the Legislature intended to impose liability on county road commissions and the state for defects in the surface of roads, alone, it could have and would have said so. The plain meaning of the words “improved portion of the highway designed for vehicular travel” connotes a broader concept than just the surface of the road, itself.

The primary goal of statutory interpretation is to give effect to the controlling intent of the Legislature. *Lorencz v. Ford Motor Co.*, 439 Mich. 370, 376–377, 483 N.W.2d 844 (1992). “When determining legislative intent, statutory language should be given a reasonable construction considering its purpose and the object sought to be accomplished.” *Wills v. Iron Co.* *189 *Bd. of Canvassers*, 183 Mich.App. 797, 801, 455 N.W.2d 405 (1990).

As the majority hints, this Court has long struggled with the outrageously imperfect language of the highway exception to governmental immunity. *Op.*, p. 715. That long struggle, alone, supports the conclusion that the language of the highway exception is far from plain.³ However, the majority asserts that the language of the statute is “plain,” in the sense that it lacks ambiguity.

I differ with the majority's conclusory assertion that the statutory phrase “improved portion of the highway designed for vehicular travel” has a plain meaning wilfully disregarded by this Court in *Pick v. Szymczak*, 451 Mich. 607, 548 N.W.2d 603 (1996). Standing alone, the phrase does not specify that the improved portion of the highway designed for vehicular travel includes only the surface of the highway. For example, it leaves uncertain whether the space above the highway containing traffic lights is included.

Because it does not, the words “improved portion of the highway designed for vehicular travel” might include traffic control devices. Beyond dispute, they constitute an improvement, inasmuch as they are placed on or above the highway by a government agency to improve vehicular travel.

As we noted in *Pick*, vehicles do not travel “solely on the two-dimensional length and width of the roadway,” but in three dimensional space. *Id.* at 622–623, 548 N.W.2d 603. *190 And for obvious reasons, it is impossible to place traffic control devices on the roadbed that the vehicles touch while traveling.

**726 Provisions of the Motor Vehicle Code support the conclusion that the Legislature envisioned traffic control devices as an integral part of the highway itself:

The state highway commission shall place or require to be placed and maintain or require to be maintained such traffic control

devices, conforming to said manual and specifications, upon all state highways as it shall deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn or guide traffic. [MCL 257.609(a); MSA 9.2309(a) (emphasis added).]

The county road commission has a similar duty:

Local authorities and county road commissions in their respective jurisdictions shall place and maintain such traffic control devices upon highways under their jurisdiction as they may deem necessary to indicate and carry out the provisions of this chapter or local traffic ordinances or to regulate, warn or guide traffic. All such traffic control devices hereafter erected shall conform to the state manual and specifications. [MCL 257.610(a); MSA 9.2310(a) (emphasis added).]⁴

*191 The Legislature's use of the word “upon” indicates that traffic control devices are on, not off highways. The Legislature appears to have intended that they become a part of the highway itself. Since we cannot determine from the phrase alone whether it includes improvements such as traffic devices, it is appropriate to analyze the provisions of the governmental immunity act as a whole.

B. The Statutory Scheme of the Governmental Immunity Act

In *Ross v. Consumers Power Co. (On Rehearing)*,⁵ we recognized that the governmental immunity act was intended to provide uniform liability and immunity to both state and local government agencies. The preamble to the act notes that it is

an act to make uniform the liability of municipal corporations, political subdivisions, and the state, its agencies and departments, officers, employees, and volunteers thereof, and members of certain boards, councils, and task forces when engaged in the exercise

or discharge of a governmental function, for injuries to property and persons; to define and limit this liability.... The highway exception is § 2 of the governmental immunity act, M.C.L. § 691.1402(1); MSA 3.996(102)(1). In it, the Legislature placed a general duty on “each governmental agency having jurisdiction over a highway” to “maintain the highway in reasonable repair so that it is reasonably safe and convenient for public travel....” *192 The next sentence imposes liability on a government agency having jurisdiction over a highway for failure “to keep a highway under its jurisdiction in reasonable repair and in a condition reasonably safe and fit for travel....” Thus, liability not only extends to highways in a **727 state of disrepair, but to those in a condition not reasonably safe and fit for travel.

The majority concludes that the Legislature did not intend to include traffic control devices within the purview of the highway exception. To reach that conclusion, it reads the first and second sentence of M.C.L. § 691.1402(1); MSA 3.996(102)(1) *separately*. The result is that it contradicts the Legislature's clear intent and renders the second sentence nugatory.

The second sentence of M.C.L. § 691.1402(1); MSA 3.996(102)(1) provides:

A person who sustains bodily injury or damage to his or her property by reason of failure of a governmental agency to keep a highway under its jurisdiction in reasonable repair and in a condition reasonably safe and fit for travel may recover the damages suffered by him or her from the governmental agency.

In this sentence, the Legislature expressly provides that persons who are injured because a government agency failed to keep a highway “in reasonable repair *and* in a condition reasonably safe and fit for travel” may recover damages from that agency. The majority quotes Justice Riley's dissent in *Pick*, asserting that a duty to keep the highway in a condition reasonably safe for travel does not exist. However, the assertion is refuted by the second sentence of the highway exception, itself. It is illogical to conclude that the *193 Legislature would impose liability where there is no duty.

It is a maxim of statutory construction that every word in a statute should be read to give the word meaning.

Also, a court should avoid a construction that would render any part of a statute surplusage or nugatory. *In re MCI Telecommunications*, 460 Mich. 396, 414, 596 N.W.2d 164 (1999); *Altman v. Meridian Twp.*, 439 Mich. 623, 635, 487 N.W.2d 155 (1992). The majority violates these principles by reading the first sentence of the highway exception, but ignoring the second. It renders meaningless the Legislature's intent to allow damages to those injured when a government agency fails to keep a highway under its jurisdiction reasonably safe for public travel.

Keeping the highway in a condition reasonably safe for public travel includes maintaining traffic control devices in working order. The majority maintains that traffic control devices are not implicated in the definition of “highway” under the highway exception to the governmental immunity act. I disagree.

Under subsection 1(e) of the governmental immunity act, M.C.L. § 691.1401(e); MSA 3.996(101)(e),

“Highway” means a public highway, road, or street that is open for public travel and includes bridges, sidewalks, trailways, crosswalks, and culverts on the highway. The term highway does not include alleys, trees, and utility poles.

As the majority concedes, this definition of “highway” is broad. *Op.*, p. 719, n. 30. In defining it, the Legislature specifies what is excluded: alleys, trees, and utility poles. Notably, it did not exclude traffic control devices. The majority usurps the Legislature's *194 role by adding traffic control devices to the list of exclusions.

This broad definition of “highway” explains the presence of the fourth sentence of M.C.L. § 691.1402(1); MSA 3.996(102)(1):

The duty of the state and county road commissions to repair and maintain highways, and the liability for that duty, extends only to the improved portion of the highway designed for vehicular travel and does not include sidewalks, trailways, crosswalks, or any other installation outside of the

improved portion of the highway designed for vehicular travel.

This sentence relieves county road commissions and the state from liability for installations outside the improved portions of the highway. But the Legislature did ****728** not completely bar recovery when an individual is injured because of a defect in “a portion of a county highway outside of the improved portion of the highway designed for vehicular travel, including a sidewalk, trailway, crosswalk or other installation.” [MCL 691.1402a\(1\)](#); MSA 3.996(102a)(1).

Instead, the act places liability for those accidents on municipal corporations. [MCL 691.1402a\(1\)](#); MSA 3.996(102a)(1). If a municipal corporation knew about a defect thirty days before a plaintiff's injury and the defect is the proximate cause of the injury, then the corporation is liable.⁶ [MCL 691.1402a\(1\)\(a\) and \(b\)](#); MSA 3.996(102a)(1)(a) and (b).

***195** Under the statutory scheme created by the governmental immunity act, state and county road commissions are liable for defects *in* the improved portion of the highway designed for vehicular travel. [MCL 691.1402\(1\)](#); MSA 3.996(102)(1). When a municipal corporation knows or should know about the existence of a defect outside the improved portion of the highway, it is liable for injuries caused by the defect. [MCL 691.1402a](#); MSA 3.996(102a).

Maintaining traffic control devices is a governmental function delegated to county road commissions and the state. [MCL 257.609\(a\)](#); MSA 9.2309(a), [M.C.L. § 257.610\(a\)](#); MSA 9.2310(a). The governmental immunity act was intended to make uniform the liability of government agencies when, in the discharge or exercise of certain government functions, persons were injured. One of the functions is maintaining highways in reasonable repair and in a condition reasonably safe and convenient for public travel. Hence, the act includes the highway exception, which is found at [M.C.L. § 691.1402\(1\)](#); MSA 3.996(102)(1).

Defective traffic control devices make highways hazardous for vehicular traffic. It is therefore logical to conclude that the Legislature intended to include traffic control devices in the duty to maintain highways in a condition reasonably safe for public travel. However, the majority has decided that traffic control devices are located outside the improved portions of roads, shifting liability for defective control devices to municipal corporations.

***196** I find this conclusion illogical, particularly when county road commissions and the state have the duty to place and maintain traffic control devices on highways. [MCL 257.609\(a\)](#); MSA 9.2309(a); [MCL 257.610\(a\)](#); MSA 9.2310(a). Shifting liability for defective traffic control devices to municipal corporations when it is the county road commissions or the state that have the duty to maintain them is simply senseless.

C. Public Policy Considerations

In support of its construction of [M.C.L. § 691.1402\(1\)](#); MSA 3.996(102)(1), the majority points to certain public policy considerations. Specifically, it is concerned about the costs taxpayers might sustain if we determine that the use and maintenance of traffic control devices are part of keeping highways safe for public travel.

Contrary to the majority's predictions, the inclusion of traffic control devices would not make county road commissions and the state responsible for every instance of injury arising from automobile accidents. Instead, they would be liable only for injuries caused by their failure to maintain the improved highways in a condition *reasonably safe* for vehicular travel.

In terms of public policy, one could argue that the taxpayers desire the reasonable ****729** use of traffic control devices to make roads safer. One could also argue that they intend compensation for those injured when an agency fails to keep roads safe, as expressly provided in the second sentence of the highway exception.

***197** There has been no evidence that, “before *Pick*, a dearth of traffic control devices existed, creating vastly unsafe highways...” *Op.*, p. 720, n. 34. By the same token, there is no evidence that, since *Pick* in 1996, state coffers have been drained by a flood of lawsuits alleging injuries from unsafe traffic control devices.⁷ Indeed, if it were the case that *Pick* resulted in an unbearable financial strain on the state, then surely the Legislature would have rewritten the governmental immunity act.⁸

III. CONCLUSION

Pick does not contradict the plain meaning of [M.C.L. § 691.1402\(1\)](#); MSA 3.996(102)(1). Rather, the interpretation proffered by the majority today offends the statutory scheme set in place by the Legislature. Moreover, it offends principles of statutory construction, the doctrine of *stare decisis*, and common sense.

In *Ross*, we provided that exceptions to the governmental immunity act should be construed narrowly; however, it does not follow that they should be construed in contravention of the stated intent of the Legislature.

It appears that the majority is straining in making the statutory interpretation in *Evens*. It has improperly *198 interpreted the words “improved portion of the highway designed for vehicular travel” to include only the surface of the road. If the Legislature did so intend, it could have and, presumably, would have said “surface of the road.”

More problematic is the majority's analysis of the words “improved portion of the highway designed for vehicular

travel.” It distorts the governmental immunity act by shifting to municipalities liability for defective traffic control devices. It does so despite the Legislature's delegation of the duty to maintain these devices to county road commissions and to the state.

Throughout this judicial term, I have been dismayed by the majority's disregard of precedent laid down by the Court in years past. See [Robinson v. Detroit](#), 462 Mich. 439, 475-477; 613 N.W.2d 307 (2000) (Kelly, J., dissenting). This case is yet another example.

MICHAEL F. CAVANAGH, J., concurred with MARILYN J. KELLY, J.

All Citations

463 Mich. 143, 615 N.W.2d 702

Footnotes

1 The liability of the state and county road commissions is, of course, properly understood as the liability of state taxpayers, because the state and its various subdivisions have no revenue to pay civil judgments, except that revenue raised from the taxpayers.

2 [Horace v. Pontiac](#), 456 Mich. 744, 750, n. 3, 575 N.W.2d 762 (1998).

3 In [Suttles v. Dep't of Transportation](#), 457 Mich. 635, 642-643, 578 N.W.2d 295 (1998), this Court recently acknowledged its prior difficulties interpreting the highway exception, stating:

We acknowledge that the notion of governmental immunity, its interpretation, and its practical application have been difficult at times, stemming in part from the decisions of this Court and from the confusing nature of the statute itself. In the companion case to [Suttles](#), [Brown v. Dep't of Transportation](#), 457 Mich. 635, 578 N.W.2d 295 (1998), reh. gtd. (1998), app. dis. (1999), 459 Mich. 1228, 587 N.W.2d 503, this Court's order granting rehearing also recognized the confusion in this area of law and demonstrated that this Court has been seeking a clearer standard that properly applies the statutory language. That order provided as follows:

The parties are directed to submit supplemental briefs addressing the following questions: (1) In order for a defect to be within the highway exception to governmental immunity, must the defect pose a hazard to vehicular travel? (2) Did the defect alleged in this case represent a hazard to vehicular travel? (3) Is a vehicular accident required for the highway exception to governmental immunity to apply? (4) Does a vehicle striking a pedestrian constitute a vehicular accident? (5) Should this Court reconsider and adopt the position expressed in the concurring and dissenting opinion of Justice WEAVER in this case, and the dissenting opinion of Justice RILEY in [Pick v. Szymczak](#), 451 Mich. 607, 632-656 [548 N.W.2d 603] (1996), that the highway exception to governmental immunity does not extend to design defects, i.e., defects not within the surface of the improved portion of the highway. [[Brown](#), *supra* at 1228, 587 N.W.2d 503.]

Brown was dismissed by stipulation of the parties, before this Court could resolve these questions.

4 For the sake of assisting the bench and bar, an appendix to this opinion provides a summary of the proper legal principles to be applied in cases involving the highway exception.

5 There is no dispute that the portion of Kelly Road at issue in this case fell within the jurisdiction of the Macomb County Road Commission.

- 6 To avoid confusion between defendant in this case and defendant in the consolidated case, this opinion will refer to defendant Macomb County Road Commission as the “MCRC” and to defendant Shiawassee County Road Commissioners as the “SCRC.”
- 7 *Nawrocki v. Macomb Co. Rd. Comm.*, unpublished opinion per curiam, issued November 12, 1996 (Docket No. 181350).
- 8 The order provided that this case be argued and submitted to the Court together with *Evens v. Shiawassee Co. Rd. Comm’rs*. 460 Mich. 867, 598 N.W.2d 347 (1999).
- 9 There is no dispute that the intersection at issue in this case fell within the jurisdiction of the Shiawassee County Road Commission.
- 10 Evens testified that he retained no memory of the accident or the surrounding circumstances.
- 11 However, Evens' expert witness declined to express an opinion about whether a four-way installation of stop signs or traffic signals would have prevented the accident.
- 12 *Evens v. Shiawassee Co. Rd. Comm’rs*, unpublished opinion per curiam, issued March 7, 1997 (Docket No. 186253).
- 13 We initially denied the SCRC's application for leave to appeal, 459 Mich. 879, 615 N.W.2d 731 (1998), but subsequently granted the SCRC's motion for reconsideration, 459 Mich. 928, 615 N.W.2d 733 (1998), holding the case in abeyance for *Brown*, n. 3 *supra*. After *Brown* was dismissed by stipulation of the parties, we granted defendant SCRC leave to appeal. 460 Mich. 867, 598 N.W.2d 347 (1999).
- 14 The five statutory exceptions are: the highway exception, M.C.L. § 691.1402; MSA 3.996(102), the motor vehicle exception, M.C.L. § 691.1405; MSA 3.996(105), the public building exception, M.C.L. § 691.1406; MSA 3.996(106), the proprietary function exception, M.C.L. § 691.1413; MSA 3.996(113), and the governmental hospital exception, M.C.L. § 691.1407(4); MSA 3.996(107)(4).
- 15 Nawrocki's accident occurred on May 28, 1993, and Evens' accident occurred on May 18, 1992. Accordingly, the statutory language applicable in these consolidated cases is that found in 1990 PA 278, § 1, effective December 11, 1990, rather than the current statutory language, which was enacted by 1999 PA 205, effective December 21, 1999. We believe today's holding is equally applicable to cases brought after this recent enactment.
- 16 The Legislature codified the definitional determinations of *Ross*, *supra*, when it enacted 1986 PA 175. In doing so, the Legislature put its imprimatur on this Court's giving the exceptions to governmental immunity a narrow reading. *Horace*, *supra* at 754, n. 6, 575 N.W.2d 762; *Reardon*, *supra* at 412, 424 N.W.2d 248.
- 17 See *Franges v. General Motors Corp.*, 404 Mich. 590, 611, 274 N.W.2d 392 (1979).
- 18 The dissent accuses us of reading “the first and second sentence of M.C.L. § 691.1402(1); MSA 3.996(102)(1) separately.” Op., p. 727 (emphasis in the original). In fact, we read these sentences *together* to reach our holding today. The plain language of the second sentence merely establishes the liability for breach of the duty created by the first sentence, that being the duty to “maintain the highway in reasonable repair so that it is reasonably safe and convenient for public travel.” Subsection 2(1) (emphasis added). The statutory clause creates only *one* exception to governmental tort immunity, that being the breach of the duty to repair and maintain the highway. The second sentence does not create, as we believe the dissent wrongly asserts, op., p. 727, a *second* exception outside the duty to maintain and repair the highway.
- We think it is important to note that the first, third, and last (fourth) sentence of subsection 2(1) speak to only *one* duty, that being the duty to repair and maintain the highway. If the dissent's assertion were logically acceptable, these sentences would be mere surplusage, because, as asserted by the dissent, the general “duties” relating to highways, and the resulting liability for breach thereof, are created in the *second* sentence. See *In re MCI Telecommunications*, 460 Mich. 396, 414, 596 N.W.2d 164 (1999) (a court should avoid a construction of a statute that would render any part of it surplusage or nugatory).
- 19 MCL 224.21; MSA 9.121 was subsequently amended by 1996 PA 23, § 1, effective February 16, 1996. Those amendments are not pertinent to our analysis here.
- 20 We do not decide whether the portion of Kelly Road at issue in *Nawrocki* was actually unsafe for pedestrian travel. Below, Nawrocki's expert witness conceded that the road was reasonably safe for vehicular travel.
- 21 The facts in *Gregg* were distinguished from those in *Roy* because the bicycle path in *Roy* was parallel to, but separate from, the highway, while the bicycle path in *Gregg* was immediately adjacent to the lanes for vehicular traffic, located between the white line and the shoulder of the road.
- 22 The Court of Appeals in *Suttles* attempted to follow and apply the holding and analysis of *Mason*.
- 23 That is, “[a]s long as the individual was injured on the improved portion of the highway [designed for vehicular travel] and was not injured in any of the three areas listed in M.C.L. § 691.1402(1); MSA 3.996(102)(1), we have consistently held that that individual stated a cause of action so as to avoid governmental immunity.” *Suttles*, 457 Mich. at 649, 578 N.W.2d 295.

- 24 In *Suttles*, this Court recognized the confusing nature of this language and cited, at length, the Court of Appeals discussion of this problematic statute:
- The express language of the highway exception indicates that the duty of highway authorities to repair and maintain the highways “shall extend only to the improved portion of the highway designed for vehicular travel.” The provision then states that such duty “shall not” extend to three types of installations: (1) “sidewalks”; (2) “crosswalks”; and (3) “any *other* installation outside of the improved portion of the highway designed for vehicular travel.” (Emphasis added.)
- This language is confusing for several reasons. First, its structure implies that installations 1, 2, and 3 are exclusions from the highway exception. Yet, it is difficult to fathom how “sidewalks,” unlike “crosswalks,” could be construed as part of the “improved portion of the highway designed for vehicular travel,” even absent their explicit exclusion from the highway exception. Second, the “any *other* installation” language of the third exclusion to the highway exception follows a specific enumeration of terms that by implication also describe installations “outside of the improved portion of the highway designed for vehicular travel”; “crosswalks,” however, clearly do not fit this description. In other words, it is unclear why “sidewalks” are expressly excluded from the highway exception and it is equally unclear why “crosswalks” are implicitly described as installations “outside of the improved portion of the highway designed for vehicular travel.” [457 Mich. at 643, n. 5, 578 N.W.2d 295.]
- 25 For example, in attempting to interpret the statutory clause, one might conclude that the fourth sentence of the statutory clause, specifically the phrase “designed for vehicular travel,” expressly limits the references to “public travel” in the first and third sentences, and thereby establishes a duty within the state and county road commissions to repair and maintain highways so that they are reasonably safe for *vehicular* travel only. One might also be convinced that the fourth sentence of the statutory clause limits the state and county road commissions' duty by defining the location within which this duty arises, not with regard to the *class* of traveler, but with regard to the *type of risk* the highway exception seeks to avoid, i.e., dangers to vehicular travel, not pedestrian travel. See e.g., *Mason*, *supra*. The statutory language might also lead one to the conclusion that, although pedestrians, as a class, may be protected by the statute—specifically under the second sentence's “any person” phrase—the fourth sentence only allows a pedestrian protection if an injury or damage was the result of a vehicular accident. See *Mason*, *supra* at 135, n. 4, 523 N.W.2d 791. However, in our judgment, none of these interpretations reflects the construction of the highway exception that is most compatible with its language; we merely acknowledge that the exception is susceptible to misreading, a misreading that we believe has been reflected in past judicial decisions.
- 26 We note that in *Mason* the claimed defect was in a crosswalk; the express exclusion of crosswalks from the highway exception was dispositive. Accordingly, we believe that the other propositions within the majority opinion were dicta. See *Mason*, *supra* at 139, 523 N.W.2d 791 (CAVANAGH, C.J., dissenting in part).
- 27 We are not unaware of the potential for today's holding to result in outcomes that appear illogical or incongruous. For example, a pedestrian injured by a dangerous or defective condition located within a crosswalk, which is arguably integrated into a roadbed, may not be able to plead in avoidance of governmental immunity, while a pedestrian who steps out of a vehicle, onto the paved or unpaved portion of the roadbed used by vehicular traffic, and is injured by a dangerous or defective condition within the roadbed itself, may proceed under the highway exception. However, such an anomalous result appears compelled by the language of the highway exception.
- 28 We acknowledge that repairing and maintaining the improved portion of the highway in a condition reasonably safe and convenient for *public* travel represents a higher duty of care on the part of the government than repairing and maintaining it for *vehicular* travel.
- 29 As noted by this Court in *Suttles*, 457 Mich. at 651, n. 10, 578 N.W.2d 295, simply falling within the highway exception is not the end of the analysis. After successfully pleading in avoidance of governmental immunity, a plaintiff still must prove a cause of action under traditional negligence principles:
- Concepts such as the “intended and permitted user” language derived from *Gregg* apply to the negligence analysis and bear on whether a defendant owed a duty to the plaintiff or whether the plaintiff was comparatively negligent.
- 30 The dissent contends that “[t]he plain meaning of the words ‘improved portion of the highway designed for vehicular travel’ connotes a broader concept than just the surface of the road, itself.” Op., p. 725. We are convinced, however, that quite the opposite is true; while the term “highway” may be broad and potentially ambiguous, the phrase “improved portion” clearly narrows the term “highway” to its physical structure, and the phrase “designed for vehicular travel” further narrows “highway” to the physical roadbed itself. Thus, the dissent is simply wrong, in our judgment, when it states that the language of the highway exception “leaves uncertain whether the space above the highway containing traffic lights is included.” Op., p. 725.

- 31 The limited scope of the term “highway” in § 2 “parallels the common understanding of the word.” *Scheurman v. Dep’t of Transportation*, 434 Mich. at 630, 456 N.W.2d 66; *Roy v. Dep’t of Transportation*, 428 Mich. at 339, 408 N.W.2d 783.
- 32 *Pick’s* effort to define a “point of hazard”:
provide[s] insight to the Legislature’s desire to limit the duty of the state and county only to the obligation to “repair and maintain” the improved portion of the highway [designed for vehicular travel]. The duty to repair would generally limit the government’s liability to cases in which there are defects in the roadbed’s surface. In contrast, the Legislature may have feared that it could not anticipate the circumstances in which the state or county would be exposed to liability if the Legislature imposed on [them] the duty to ensure that travel is reasonably safe on governmental highways. [*Id.* at 641, 548 N.W.2d 603 (RILEY, J., dissenting).]
- 33 The dissent relies upon the doctrine of legislative acquiescence in stating that “the Legislature [in making revisions to the governmental immunity act in 1999] did not revise the highway exception to exclude traffic control devices, despite *Pick’s* 1996 holding that traffic control devices are included within the exception.” *Op.*, p. 729, n. 8. However, this Court has made it clear that the doctrine of legislative acquiescence “is a highly disfavored doctrine of statutory construction; sound principles of statutory construction require that Michigan courts determine the Legislature’s intent from its *words*, not from its silence.” *Donajkowski v. Alpena Power Co.*, 460 Mich. 243, 261, 596 N.W.2d 574 (1999) (emphasis in the original). See also *United States v. Price*, 361 U.S. 304, 313, 80 S.Ct. 326, 4 L.Ed.2d 334 (1960) (views of a subsequent Congress form a hazardous basis for inferring the intent of an earlier one).
- 34 There has certainly been no evidence propounded that, before *Pick*, a dearth of traffic control devices existed, creating unsafe highways and requiring remedy by the application of a broad construction of the highway exception. There is ample evidence, however, that lawsuits never contemplated or intended by the Legislature have been brought under the auspices of this statutory clause. See, e.g., *Wechsler, supra* (improvement of traffic signs); *Helmus v. Dep’t of Transportation*, 238 Mich.App. 250, 604 N.W.2d 793 (1999) (adequate traffic control devices); *McIntosh v. Dep’t of Transportation*, 234 Mich.App. 379, 594 N.W.2d 103 (1999), held in abeyance pending outcome of the present cases, unpublished order of the Supreme Court, — Mich. —, 604 N.W.2d 678, entered November 11, 1999 (Docket No. 203017) (median barriers); *Reeves v. Kmart Corp.*, 229 Mich.App. 466, 582 N.W.2d 841 (1998) (adequate signs); *Iovino v. Michigan*, 228 Mich.App. 125, 577 N.W.2d 193 (1998), held in abeyance pending outcome of present case, unpublished order of the Supreme Court, — Mich. —, 598 N.W.2d 347, entered June 30, 1999 (Docket No. 197410) (adequate signs); *Paddock v. Tuscola & Saginaw Bay R Co, Inc.*, 225 Mich.App. 526, 571 N.W.2d 564 (1997) (adequate signs); *McKeen v. Tisch (On Remand)*, 223 Mich.App. 721, 567 N.W.2d 487 (1997) (tree limb hanging over roadway).
- 35 We are convinced that the legislative process is the appropriate process for apportioning public funds for such expenditures as signage, and that the executive process, involving the road authorities of the state, is the appropriate process for determining the specific forms of signage necessary to produce safe highways. See, e.g., *Wechsler v. Wayne Co. Rd. Comm.*, *supra* at 588, n. 4, 546 N.W.2d 690:
While a particular decision to “improve,” “augment,” or “expand” a highway may be prudent and advisable, the decision nevertheless is for persons entrusted with the expenditure of taxpayer resources, not the courts.
Ultimately, if the people of this state are dissatisfied with the quality of signage along their highways, they can communicate this dissatisfaction through the selection of representatives to state and local executive and legislative bodies.
- 36 Contrary to the dissent, we do not “reach[] this conclusion simply by failing to give weight to the language that follows the phrase ‘deem necessary.’ ” *Op.*, p. 726, n. 4. The plain language of subsections 609(a) and 610(a), which we quote in their entirety, clearly demonstrates that the phrase “to indicate and to carry out the provisions of this chapter [or local traffic ordinances] or to regulate, warn or guide traffic,” is modified by the phrase “as it [they] shall deem necessary.” Furthermore, in attempting to create a logical connection between the plain language of the narrow highway exception to governmental tort immunity and the Motor Vehicle Code, the dissent wholly ignores the critical language found in subsection 2(1), but not found in subsections 609(a) and 610(a): the exception to tort immunity, at least with regard to the state and county road commissions, is only implicated upon the failure to reasonably maintain and repair “*only ... the improved portion of the highway designed for vehicular travel.*” (Emphasis added.) While it is arguable that “highway,” within the language of the Motor Vehicle Code, may include traffic control devices, the Legislature clearly intended to limit the *highway exception* to the *roadbed itself* when it drafted the fourth sentence of subsection 2(1). Following the dissent’s logic would render the fourth sentence meaningless.
- 37 The dissent accuses us of “shifting” the liability for traffic control devices, including traffic signs, from the state and county road commissions, to local municipalities. While the purpose of our holding today is merely to return to a

principled application of the plain language of the highway exception, we are constrained to respond to the dissent's misapprehension of the governmental immunity statute.

Clearly, traffic signals and signs are not implicated in the broad definition of "highway" in [M.C.L. § 691.1401\(e\)](#); MSA 3.996(101)(e): " 'Highway' means a public highway, road, or street that is open for public travel and includes bridges, sidewalks, trailways, crosswalks, and culverts on the highway. The term highway does not include alleys, trees, and utility poles." [MCL 691.1402](#); MSA 3.996(102) creates an exception to governmental immunity for the state or county road commissions' failure to maintain and repair the "improved portion of the highway designed for vehicular travel." Thus, there is a gap that exists between the "improved portion of the highway designed for vehicular travel," and the broader confines of "highway," defined in subsection 1(e). [MCL 691.1402a](#); MSA 3.996(102a) seeks to fill this gap, at least with respect to *county* highways. However, because traffic control devices are clearly not implicated in the broad definition of "highway," there can be no "shifting" of liability from the state and county road commissions to local municipalities.

1 [447 Mich. 130, 135, n. 4, 523 N.W.2d 791 \(1994\)](#).

2 The plaintiff in *Gregg* was injured while riding his bicycle on the shoulder of highway M-35. The bicycle overturned when it struck a pothole. *Id.* at 309, 458 N.W.2d 619.

3 See *People v. Warren*, 462 Mich. 415, 615 N.W.2d 691 (2000). ("The Court's varied readings of the personal wrong exception to the spousal privilege in the opinions discussed here bear witness to the ambiguous language of the exception.")

4 The majority argues that these sections give the state highway commission and county road commissions discretion in determining how traffic control devices are installed and maintained. It seems to conclude that their discretion is complete. Therefore, a finding that the governmental immunity act imposes liability for the failure to maintain these devices in a condition reasonably safe for vehicular travel would disturb this discretion. But, the majority reaches this conclusion simply by failing to give weight to the language that follows the phrase "deem necessary." *Op.*, p. 722, n. 36. The county road commission and the state shall place and maintain traffic control devices as they deem necessary "to indicate and to carry out the provisions of this chapter [and local traffic ordinances, in the case of county road commissions] or to regulate, warn or guide traffic." [MCL 257.609\(a\)](#); MSA 9.2309(a). [MCL 257.610\(a\)](#); MSA 9.2310(a). Thus, the county road commissions' and the state's discretion is not as complete as the majority would lead one to believe. Holding that the highway exception to governmental immunity includes traffic control devices does not interfere with the placement and maintenance of these devices to effectively regulate, guide and warn traffic.

5 [420 Mich. 567, 614, 363 N.W.2d 641 \(1984\)](#).

6 Section 2a of the governmental immunity act was added recently. 1999 PA 205. It codified the notice provision and the "two inch rule," thereby limiting municipalities' liability for sidewalks, trailways, crosswalks, and other installations outside the improved portion of the highway. Before the enactment of 1999 PA 205, municipalities were required to keep sidewalks and the like in "reasonable repair" by virtue of [M.C.L. § 691.1402\(1\)](#); MSA 3.996(102)(1) and its predecessors. See *Weisse v. Detroit*, 105 Mich. 482, 63 N.W. 423 (1895); *Glancy v. Roseville*, 457 Mich. 580, 584, 577 N.W.2d 897 (1998).

7 The majority lists seven cases brought as "ample evidence" that the state has been burdened by lawsuits alleging unsafe traffic control devices since *Pick* was decided in 1996. *Op.*, p. 720, n. 34. Of them, only five allege unsafe or inadequate traffic control devices. Five do not constitute a flood of lawsuits.

8 In 1999, the Legislature revised the government immunity act, including the provisions at issue here. [MCL 691.1402\(1\)](#); MSA 3.996(102)(1). Notably, the Legislature did not revise the highway exception to exclude traffic control devices, despite *Pick's* 1996 holding that traffic control devices are included within the exception.

Exhibit 6 to MDOT's MSJ

116 Mich.App. 212
Court of Appeals of Michigan.

CITY OF TRENTON, a Michigan
Municipal Corporation, Plaintiff
and Counter-Defendant-Appellant,

v.

COUNTY BOARD OF ROAD COMMISSIONERS
OF the COUNTY OF WAYNE, Defendant
and Counter-Plaintiff-Appellee.

Docket No. 50777.

|

Submitted June 8, 1981.

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Decided May 19, 1982.

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Released for Publication Sept. 1, 1982.

Municipal corporation brought action seeking declaratory and injunctive relief, and the commissioners counter-claimed against the municipal corporation for declaratory and injunctive relief. The Wayne Circuit Court, Horace W. Gilmore, J., granted preliminary injunction sought by the commissioners, and appeal was taken. The Court of Appeals, Gage, J., held that: (1) statute prohibiting local authorities from placing or maintaining any traffic-control device upon any county road without permission of county road commission having jurisdiction over the road did not unconstitutionally limit municipal corporation's authority to enact and enforce local ordinance regulating weight restrictions on county road located within municipal corporation's city limits, and (2) municipal corporation's actions of posting weight restriction signs along county road and of issuing traffic citations for violations of ordinance pursuant to which the signs were posted constituted violation of such statute; however, municipal corporation was not precluded from enforcing any ordinance regulating weight of trucks on county roads under the commission's jurisdiction, but only specific ordinance pursuant to which the citations had improperly been issued.

Affirmed.

West Headnotes (4)

[1] **Automobiles**

🔑 **Injuries to Highways**

Statute prohibiting local authorities from placing or maintaining any traffic-control device upon any county road without permission of county road commission having jurisdiction over the road did not unconstitutionally limit municipal corporation's authority to enact and enforce local ordinance regulating weight restrictions on county road located within municipal corporation's city limits. GCR 1963, 117.2(3); M.C.L.A. § 257.609(b); M.C.L.A.Const.Art. 7, §§ 22, 29.

[Cases that cite this headnote](#)

[2] **Automobiles**

🔑 **Local Regulations**

Under statute granting county road commission authority to permit local authorities to place or maintain traffic control devices upon county roads, county road commission may not arbitrarily withhold from local authority permission to place or maintain traffic-controlled device on county road, and whether specific grant or denial of permission to post traffic control devices is proper depends upon whether imposition of the device constitutes exercise of constitutionally reserve power of "reasonable control" over highways, streets, alleys and public places. M.C.L.A. § 257.609(b); M.C.L.A.Const.Art. 7, § 29.

[Cases that cite this headnote](#)

[3] **Automobiles**

🔑 **Local Regulations**

In requesting permission pursuant to statute granting county road commission's authority to permit local authorities to place or maintain traffic control devices upon county roads, local authority must demonstrate that regulation is reasonable in application to facts and circumstances of case, and whether

given municipal action constitutes exercise of reasonable control must be determined on case by case basis considering such factors as peculiar local conditions, fiscal considerations, safety factors, and extent to which particular restriction is consistent with state law. [M.C.L.A. § 257.609\(b\)](#); M.C.L.A.Const.Art. 7, § 29.

[Cases that cite this headnote](#)

[4] **Automobiles**

[Concurrent and Conflicting Regulations](#)

Municipal corporation's actions of posting weight restriction signs along county road and of issuing traffic citations for violations of ordinance pursuant to which the signs were posted constituted violation of statute granting county road commission authority to permit local authorities to place or maintain traffic control devices upon county roads where municipal corporation failed to seek permission of county road commission prior to posting the weight restrictions; however, municipal corporation was not precluded from enforcing any ordinance regulating weight of trucks on county roads under the commission's jurisdiction, but only specific ordinance pursuant to which the citations had improperly been issued. [M.C.L.A. § 257.609\(b\)](#); M.C.L.A.Const.Art. 7, § 29.

[Cases that cite this headnote](#)

Attorneys and Law Firms

****341 *214** Burley, Smiertka, Swank & Misko, P. C., Trenton, for plaintiff and counter-defendant-appellant.

Marston, Sachs, Nunn, Kates, Kadushin & O'Hare, P. C. by Theodore Sachs and Mary Ellen Gurewitz, Detroit, for defendant and counter-plaintiff-appellee.

Before RILEY, P. J., and CYNAR and GAGE*, JJ.

Opinion

GAGE, Judge.

Plaintiff, City of Trenton, appeals an order of summary judgment granted in favor of defendant, Wayne County Board of Road Commissioners. This suit arose out of a dispute over plaintiff's authority to impose weight restrictions on West Jefferson Avenue, a county road under defendant's jurisdiction which is located within plaintiff's city limits. On February 20, 1979, plaintiff enacted city ordinance No. 371-57, which placed a 20,000-pound gross weight restriction on the part of West Jefferson that is located within plaintiff's boundaries. Plaintiff subsequently posted signs on West Jefferson which reflected the weight restrictions and established an alternate heavy truck route from West Jefferson to Fort Street within city limits. It is undisputed that plaintiff ***215** failed to seek defendant's permission to erect the signs.

Plaintiff's ordinance was enforced through the issuance of traffic citations until July 17, 1979, when defendant's employees removed plaintiff's signs. Plaintiff put the signs up again on July 23, 1979, but they were again removed by defendant. Plaintiff sought declaratory and injunctive relief from defendant's interference with enforcement of the ordinance. Defendant counter-claimed against plaintiff for declaratory and injunctive relief, and a preliminary injunction was issued against plaintiff.

The trial court then granted defendant's motion for summary judgment which was brought pursuant to GCR 1963, 117.2(3). The trial court held:

“[T]he actions of the City of Trenton in having placed and maintained traffic control devices upon West Jefferson Avenue, a county road within the jurisdiction of the defendant County Board of Road Commissioners, without the permission of and over the objection of said Road Commission, was violative of Section 609 of the Motor Vehicle Code, [1949 PA 300](#), [MCLA 257.609\(b\)](#), and the constitutional authority from which it derives, [Const 1963, Art 7, § 16](#) and [Const 1963, Art 7, § 29](#).”

The trial court's order enjoined plaintiff, pending further order of the court, “from enforcing or attempting to enforce by means of signs, traffic tickets, or by any other means, City of Trenton ordinance 371.57, or any other ordinance regulating

the weight of trucks on county roads under the jurisdiction of [defendant]”.

[1] [M.C.L. § 257.609\(b\)](#); M.S.A. § 9.2309(b) (section 609(b) of the Michigan vehicle code) provides in pertinent part:

***216** “No local authority shall place or maintain any traffic-control device upon any trunk line highway under the jurisdiction of the state highway commissioner except by the latter's permission or upon any county road without the permission of the county road commission having jurisdiction thereof.” (Emphasis supplied.)

Plaintiff contends that section 609(b) is unconstitutional insofar as it is construed to ****342** limit plaintiff's authority to enact and enforce a local ordinance regulating weight restrictions on West Jefferson within city limits. Plaintiff argues that, as a home rule city, under [Const. 1963, Art. 7, § 22](#) and [§ 29](#), it has authority to enact such an ordinance. [Sections 22 and 29](#) provide:

“[Sec. 22](#). Under general laws the electors of each city and village shall have the power and authority to frame, adopt and amend its charter, and to amend an existing charter of the city or village heretofore granted or enacted by the legislature for the government of the city or village. *Each such city and village shall have power to adopt resolutions and ordinances relating to its municipal concerns, property and government, subject to the constitution and law.* No enumeration of powers granted to cities and villages in this constitution shall limit or restrict the general grant of authority conferred by this section.

“[Sec. 29](#). No person, partnership, association or corporation, public or private, operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of any county, township, city or village for wires, poles, pipes, tracks, conduits or other utility facilities, without the consent of the duly constituted authority of the county, township, city or village; or to transact local business therein without first obtaining a franchise from the township, city or village. *Except as otherwise provided in this constitution the*

*right of all counties, townships, cities and villages to the reasonable control of their highways, streets, alleys *217 and public places is hereby reserved to such local units of government.*” (Emphasis supplied.)

Both plaintiff and defendant possess the constitutionally reserved power of reasonable control of highways and streets within their respective city and county limits pursuant to [section 29](#). Furthermore, they possess concurrent authority to impose weight restrictions on highways under their jurisdictions pursuant to section 726 of the Michigan Vehicle Code, [M.C.L. § 257.726](#); M.S.A. § 9.2426. Section 726 provides, in pertinent part:

“[Sec. 726](#). (1) Local authorities and county road commissions with respect to highways under their jurisdiction, except state trunk line highways, may by ordinance or resolution, prohibit the operation of trucks or other commercial vehicles, or may impose limitations as [to] the weight thereof on designated highways, which prohibitions and limitations shall be designated by appropriate signs placed on such highways.”

Under section 609(b) of the Michigan vehicle code, [M.C.L. § 257.609\(b\)](#); M.S.A. § 9.2309(b), plaintiff's placement of signs delineating maximum weights is conditioned upon application for and receipt of permission from defendant. We disagree with plaintiff's contention that this is an unconstitutional limitation on its power to pass and enforce ordinances regulating weight limitations on roads within its jurisdiction. The reasonable control of streets reserved to cities under the Constitution is not exclusive control. *Cf.*, [Jourdin v. City of Flint](#), 355 Mich. 513, 522, 94 N.W.2d 900 (1959); [Allen v. State Highway Comm'r](#), 338 Mich. 407, 415, 61 N.W.2d 625 (1953); [Allen v. Rogers](#), 246 Mich. 501, 508, 224 N.W. 632 (1929). Correspondingly, we cannot agree with defendant's contention that defendant exercises *ipso facto* paramount control over ***218** West Jefferson by virtue of its “county” as opposed to “local” status.

[2] [3] Under section 609(b), a county road commission may not arbitrarily withhold from a local authority permission to place or maintain any traffic-control device on a county road. In effect, such a reservation would constitute a veto

power. Whether a specific grant or denial of permission to post a traffic control device is proper depends upon whether the imposition of the device constitutes an exercise of the constitutionally reserved power of "reasonable control" over highways, streets, alleys and public places. [Const. 1963, art. 7, § 29](#). In requesting permission pursuant to section 609(b), the local authority must demonstrate that the regulation is reasonable in application to the facts and circumstances of the case. See, *Fenton Gravel **343 Co., Inc. v. Village of Fenton*, 371 Mich. 358, 366, 123 N.W.2d 763 (1963). Whether a given municipal action constitutes an exercise of reasonable control must be determined on a case by case basis. Factors which should be considered include peculiar local conditions, fiscal considerations, safety factors, and the extent to which a particular restriction is consistent with state law. See, *Fenton Gravel, supra*; *Dearborn v. Sugden & Sivier, Inc.*, 343 Mich. 257, 72 N.W.2d 185 (1955); *Brennan v. Recorder of the City of Detroit*, 207 Mich. 35, 38, 173 N.W. 511 (1919); *People v. McGraw*, 184 Mich. 233, 238, 150 N.W. 836 (1915).

[4] In the case at bar, because it is uncontroverted that plaintiff failed to seek the permission of defendant prior to posting the gross weight restrictions, plaintiff's actions constituted a clear violation of section 609(b). Hence, summary judgment in favor of defendant was proper. However, the trial *219 court's order which enjoins plaintiff from enforcing any ordinance regulating the weight of trucks on county roads under defendant's jurisdiction is limited to Ordinance 371-57. Regulatory ordinances which constitute "reasonable control" may be enforced upon compliance with section 609(b) as is outlined above.

Affirmed.

All Citations

116 Mich.App. 212, 323 N.W.2d 340

Footnotes

- * Hilda R. Gage, 6th Judicial Circuit Judge, sitting on Court of Appeals by assignment, pursuant to [Const. 1963, Art. 6, Sec. 23](#), as amended 1968.

Exhibit 7 to MDOT's MSJ

Michigan Highways: Since 1997.

Michigan Highways

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HighwaysTrunkline
Route ListingsCounty Routes
& ListingsOther
RoutesIn Depth: News
& ArticlesAbout
This Site[Michigan Highways](#) > Michigan's Route Markers

Michigan's Route Markers

From the earliest times of numbered and marked state trunklines in Michigan, the standard state route marker has been the shape of a diamond with a block letter "M" in the upper corner. Early on, the diamond was taller than wide, had the words "STATE TRUNKLINE" across the widest part and the "M" and the route number were of the same size.

These early route markers would either be erected on stand-alone posts or on telephone and electric line poles along the highway. (Utility poles close by the side of the travelled-way were much more common in the first half of the 20th century.) Quite often, the "new" state trunkline marker of the late 1910s and early 1920s was applied directly over or adjacent to the colored bands designating one or more [Named Auto Trails](#). By the 1930s, the diamond had been "squashed" down so that all angles were at 90 degrees.

The ubiquitous Michigan diamond state route marker was reportedly designed by Allan M. Williams (1892–1979) who joined the Michigan State Highway Department as a project engineer in 1918 and, in conjunction with a \$50 million dollar highway bond issue in 1919, he drafted the state's first complete highway map. Since Michigan began designating and signing its state trunkline highways at this time, it is quite possible Mr. Williams did, indeed, design the original state trunkline route marker. While Williams became engineer-manager of the Ionia County Road Commission in 1919, he also continued in a dual role as project engineer for the state highway department until 1927 and held his position with Ionia County until his retirement in 1957.

In the early 1970s when U.S. federal government mandated updated and standardized traffic signage, the traditional Michigan "cutout" diamond was then incorporated with a square black sign "blank," as it is today. For more than three decades, the Michigan state trunkline marker has remained relatively unchanged.

This page attempts to illustrate the many and varies types of route markers used on Michigan's highways, from Interstate, US and State highways to National Forest routes, Great Lakes Circle Tours, county roads and others. Pick a type of route marker to jump directly to it:

[Interstate](#) | [US Highway](#) | [State](#) | [County](#) | [Forest](#) | [Circle Tour](#) | [Heritage \(Byway\)](#) | [Other](#)

Interstate Highway Markers (Mainline Routes)



Original style Interstate route marker adopted in the late 1950s and in use into the 1980s.



Newer-style Interstate route marker omits the state name, allowing for larger and easier-to-read numerals.



Interstate Business Loop route marker, commonly used in Michigan.



Interstate Business Spur route marker is less common due to a smaller number of these routes.

Interstate Highway Markers (3-digit Loop & Spur Routes)



Original style Interstate three-digit route marker adopted in



Newer-style Interstate three-digit route marker omits the



Three-digit Interstate Business Spur route marker is less

the late 1950s and in use into the 1980s.

state name, allowing for larger and easier-to-read numerals.

Three-digit Interstate Business Loop route marker, commonly used in Michigan.

common due to a smaller number of these routes.

US Highway Markers



Original "cutout" style US Highway route marker adopted in 1927 and in use into the late 1940s. Wider three-digit markers did not exist at this point.

In 1948, the US Highway route marker began using the "new" FHWA typeface, but was otherwise unchanged in shape. It remained in use into the 1970s.

Although it seems it may not have been adopted nationally, Michigan did use a wider variant of the 1948 cutout US Highway route marker for three-digit highways into the 1970s as well.

This "Outline Sign" was used in from 1948 into the 1960s for junction, target and overhead route marker assemblies. A wider three-digit marker also existed.



While the US Highway marker was revised in 1961 to include a black "sign blank" background, Michigan continued using the 1948 version until this 1971 modified version was adopted. The state converted to this style still used today.

The modern-day three-digit US Highway route marker, also adopted in 1971 when Michigan converted from using the 1948 version.

The modern-day three-digit US Highway route marker using the narrower "Series C" of the FHWA typeface to accommodate larger numbers.

As Michigan has two US Highways with two "1"s in their designations, many US-131 and US-141 route markers have been posted using the two-digit route shield.

State Highway Markers



These are two representations of early state trunkline route markers from the 1920s, one wrapped around a utility pole (L) and the other an independently-mounted sign (R).

A more standard state highway route marker was settled upon in 1926 concurrent with the adoption of the first U.S. Highway route marker.

When the U.S. Highway route marker was modified to use the "new" FHWA typeface in 1948, the Michigan state trunkline marker followed suit with regard to the numerals. The "block M" remained as it was, however.

Again, when the FHWA updated the U.S. Highway route marker specification in 1971 to use black "sign blanks" as a background, Michigan followed suit to create its current style of route marker.



Another rendition of the present state highway marker, this one showing how three-digit route numbers appear using the "Series C" FHWA typeface.

To date, the only reassurance or other independently-mounted state highway markers in an elongated format appear along M-553 in Marquette Co.

A very unique route, Mackinac Island's M-185 is the only "motorless state highway" and sports unique signage, including distances from the visitor center.

Yet another unique trunkline route, the CAPITOL LOOP in downtown Lansing functions as a loop off I-496, but has its own unique markers.

Intercounty & County Route Markers



The standard Intercounty Highway route marker, although this one is unique in that A-2 is the only 'two-character' route.

The marker was created in 1967 by the National Assoc. of Counties as part of their National Uniform County Route Marker Program.

Another Intercounty Highway route marker, this one uses a hyphen between the letter and numbers. There is no consensus between the "with" and "without" hyphen styles and both styles may be seen along the same route.

Some counties in Michigan sign their own county routes, such as Gogebic illustrated above, using the standard National Assoc. of Counties route marker.

Many other counties opt to use an older style of county route marker: a square white (or sometimes green) blank with the county name and route number in the center.

Federal Forest Highway & Forest Road Markers



Federal Forest Highway route markers appear in several of Michigan's national forests. These are high-quality, well-maintained (usually all-weather) highways.



Secondary Forest Road sign, used on roads generally open to automobile travel and closed to ORV use. These roads can range from paved to one-lane gravel.



Low-Standard Forest Road signs are used for roads which may be open to motorized use or may be closed to all but ORV or foot traffic. These range from one-lane gravel to two-track.



The National Forest Scenic Byway sign is used in many places across the U.S., specifically in Michigan on the Black River Harbor Scenic Byway north of Bessemer.

Great Lakes Circle Tour Markers



The Great Lakes Circle Tour sign, used very sparingly in Michigan, although it does appear once in awhile.



The Lake Erie Circle Tour route marker, appearing in only two Michigan counties: Monroe and Wayne.



The Lake Huron Circle Tour route marker as it appears along Lake Huron shoreline routes in both peninsulas.



The Lake Huron Circle Tour Loop route marker is used in the DeTour Village area.



The Lake Michigan Circle Tour route marker is found along many miles of Michigan trunkline.



The Lake Michigan Circle Tour Loop runs along M-109 in Leelanau Co.



The Lake Michigan Harbor Tour is a locally-posted route in the Saugatuck-Douglas area.



The Lake Superior Circle Tour route marker appears often throughout the U.P.



The Lake Superior Circle Tour Loop marker appears along at least two highways in the U.P.



The Lake Superior Circle Tour Scenic Spur runs via M-77 from Seney to Grand Marais.

Heritage Route (Michigan's Byways) Markers



Historic Heritage Route marker.



Recreational Heritage Route marker.



Scenic Heritage Route marker.

Other Route Markers



The Blue Star Highway route marker is used along a portion of the former route of US-31 in Van Buren Co.



The Oceana Circle Tour route marker appears along a locally-designated route in Muskegon and Oceana Cos.



The Polar Equator Trail route marker can be found in Antrim, Otsego, Montmorency and Alpena Cos.



The Red Arrow Highway route marker is used along the former route of US-12 in Van Buren and Berrien Cos.



The Shoreline Trail route marker appears on a locally-designated route in Muskegon Co running along the Lake Michigan shoreline.



In 2004, US-23 from Standish to Mackinaw City was designated as the Sunrise Side Scenic Highway and these route markers are posted along the route.



This "US-41 Scenic Route" marker was used from the late-1960s until 1999 along US-41 in northern Keweenaw Co.

Acknowledgements:

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However, some acknowledgements and credit are necessary.

- Many thanks to [Michael Adams](#) and his "[Roadgeek](#)" [typeface series](#) used to create many of these route markers.
- Additional thanks to Bruce S Cridlebaugh and his "[USHighwaysOldStyle](#)" [typeface](#) used for the 'original style' US and State route markers.
- Richard C. Moeur's "[Sign Manual](#)" [website](#) provided a few of the graphic bases used in creating these markers.
- Many thanks to [Barry Camp](#) for his assistance with the Capitol Loop marker.
- James Lin's "[Highway Route Markers](#)" website provided much inspiration.
- The "Sunrise Side Coastal Highway" image is courtesy Michigan's Sunrise Side, Inc.
- The two earliest state trunkline markers ("M-2" and "M-11") were reproduced from a Rand McNally & Co. "Junior Auto Trails Map of Michigan," 1926.

Additional Information:

For more information on Michigan's state trunkline (and other) route markers, visit the following off-site sources:

- [Roadpix - Michigan's Changing Route Marker Styles](#) - a page at [Barry Camp's website](#) which captures examples of route marker experimenting by MDOT in mid-Michigan.
- [Highway Route Markers](#) by James Lin, features highway markers from the US, Canada, Asia, Australia, Europe and Mexico.
- [Road Signs of Michigan](#) by Mark O'Neil. Also includes route markers and traffic signal photos from across the US.
- [Michigan's Route Markers: The Clearview Future?](#) - See what Michigan's route markers might look like if MDOT switches from using the FHWA typeface to the new Clearview typeface now being used on freeway guide signs.
- [New! Allan M. Williams, 1892-1979](#) - an obituary posted on the Ionia County Road Commission website regarding the man who likely designed the Michigan state trunkline route marker in c.1918-1919.

- **NEW!** [Allan M. Williams \(1892-1979\)](#) - a short article from the [Michigan Transportation Hall of Honor](#) on the [MDOT](#) website.

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Exhibit 8 to MDOT's MSJ



State Highway Commissioner Charles M. Ziegler does the ribbon-cutting honors at the Stephenson Highway in Oakland County. See related text on page 204.

**A DRIVE DOWN MEMORY LANE:
The Named State and Federal
Highways of Michigan**

By LeRoy Barnett, PhD



The Priscilla Press
Allegan Forest, Michigan
2004



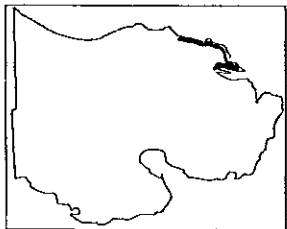
CHIPPEWA TRAIL

In former times the Chippewa (or Ojibwa) Indians were the most populous tribe in the land that became Michigan, and they remain so today. In the Upper Peninsula they occupy reservations at Bay Mills, Keweenaw Bay, L'Anse, and Lac Seul Desert, with large numbers also living on Sugar Island. South of the Straits the Chippewa have reservations at Mount Pleasant and Soudan Bay.

The Chippewa were the first natives seen by Europeans when the white man came to this area in 1622. Our woodland Indians got along well with these newcomers and helped them establish control over the western Great Lakes region by serving as hunters, trappers, guides and warriors. As allies of the French and then the British, the Chippewa became one of the largest tribal groups in North America with a territory covering 1,000 miles from east to west, extending from Lake Huron to North Dakota.

The word "Chippewa" means puckered up from roasting, a term derived from the peculiar seam the tribe members sewed on their moose-casins. In addition to their noted skills in working with animal skin and needle, these people were also expert with the canoe, as fishermen, and in the use of birch bark to make things like boxes, baskets, and covers for wigwams. The Chippewa were also preeminent as gatherers of wild rice, and even now they harvest much of the wild rice that is eaten in this country.

As the dominant group of native Americans in our region, it is not surprising to find their tribal name well represented on the landscape. In Michigan the word "Chippewa" has been given to one county, three town-



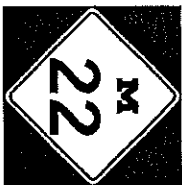
ships, one hill, one waterfall, a harbor, one lake, a river, two creeks, three communities, a state forest, and two points along the Great Lakes shoreline. "Ojibwa," the alternative name for the tribe, appears on one lake, a mountain, and an island.

Though not well known, "Chippewa" also appeared on the Michigan landscape as a named highway. This event occurred on 25 February 1930, when the M-22 Association bestowed this title upon the scenic route that runs from Manistee to the tip of Leelanau County and back south to Traverse City.

For months the M-22 Association had sought a name that would appropriately describe its highway and lure tourists to drive the road. While the group was meeting at the Chippewa Hotel in Manistee, the magic term just suddenly came to mind.

The image of an Indian head was chosen as a symbol for the route, and plans were made to print 25,000 copies of a promotional brochure for distribution to tourists. But economic realities interfered with the sponsor's dreams, and a deepening national recession curtailed efforts to publicize the highway. Today, M-22 still remains one of the most popular scenic routes in Michigan, but the name "Chippewa Trail" exists only in history.

Coordinates: G-H-8-9



cally superior Ingonis attacked the Ottawa nation and drove the people from their homelands west to the Straits of Mackinaw district. After living in that area for some years, most of the remaining tribe members relocated in 1742 to the Cross Village region, making contemporary Emmet County, the Ottawa capital of the Midwest.

As residents of the northwestern Lower Peninsula, the Ottawa made important contributions to the culture and economy of the territory. With one of the largest Indian populations in the state, the tribe's women produced substantial quantities of high-quality arts and handicrafts like woven baskets, quiltwork, pottery, jewelry, beaded items, paintings, sculptures, carvings, and buckskin clothing. They were also responsible for harvesting surprising amounts of berries and maple sugar for sale in local markets.

The men also contributed their share. At various times in the evolving whiteman's world the Ottawa males served as trappers, hunters, guides, packers, boatmen, fishermen, lumbermen, farm workers, and winter mail carriers (when it was necessary to deliver the mail using snowshoes since there were no open roads and ice had temporarily ended navigation). The Ottawa "travels" also catered to Michigan's tourist trade by performing for the benefit of visitors in various plays and pageants, conducting periodic public pow wows, and reenacting popular tribal rituals.

The Ottawa men were also warriors. Not only were they formidable adversaries in olden days, they also proved their mettle in the more modern era. During World War I, for example, 1,029 men from Emmet County answered the call of their country and served in uniform. Of this number, 49 (4%) were Ottawa Indians fighting for a nation that had treated them at times in less than honorable ways. As an expression of appreciation for this act of sacrifice and forgiveness, the Emmet County Board of Supervisors on 15 October 1920 named the Harbor Springs to Cross Village shoreline drive the "Chippewa Memorial Pike."

When the earliest government surveyors came to Michigan they

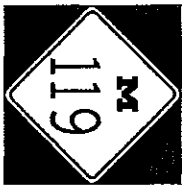
found an Indian trail already existing between present-day Cross Village and Harbor Springs. The first atlas of our state shows that by 1873 this path had become a road, although by contemporary standards it would not be so generously characterized. Wishing to upgrade this picturesque route, on 25 June 1919 the Emmet County Road Commission announced it would rebuild the road so it could accommodate motorists.

The task of making the Chippewa Memorial Pike suitable for automobiles was roughly finished in 1921 and upgraded to the highest standards in 1923. Because of the beautiful vistas along this winding stretch of road, in 1927 Michigan's Highway Department said it would take over the route if a right-of-way 300 feet wide could be acquired along the wooded sections of its course to preserve the natural scenic qualities. By 1933 it had become clear that it would never be possible to obtain property rights to a swath that wide, so the state accepted the road as it existed and on 1 January 1934 declared the shoreline avenue through the "tunnel of trees" to be trunk line M-119.

And so it is by a three-digit number and not a name that the famous high-bluff road along Lake Michigan's western coast is known today. The memorial name of appreciation bestowed years ago by the Emmet County supervisors has long since been forgotten, as it never seemed to catch on with the white community. The resident Indians never cared much for it either, for the well-intentioned county fathers mistakenly named a tribute to the Ottawas after their Chippewa brethren.

Seventy years after the picturesque coast-hugging road was turned over to the state by Emmet County, local citizens there succeeded in getting the spectacular stretch of pavement declared a Michigan Scenic Heritage Route. This special designation was celebrated at a ceremony in the Indian settlement of Cross Village on 28 June 2003, a date that more or less represents the dedication of an affaring highway honoring one of our most famous groups of Native Americans.

Coordinates: E/10



The ensuing improvements made these two routes some of the most popular avenues to the Straits, which is why no one any longer remem-

bers the Mackinaw Scenic Shortway Route. Coordinates: I-N/11-12

MACKINAW TRAIL

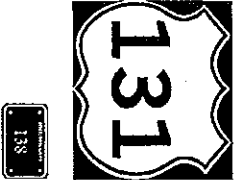
Mackinaw, or Mackinac, is one of the most famous terms in Michigan. The Indian word for "turtle," this name has been given to a village, city, township, county, straits, island, fort, bridge, lake, state forest, and state park plus a specific type of coat, boat, and blanket.

With such widespread use of the word, it is not surprising that it has also been applied to a road. But since two routes can lay claim to this honor, some explanation is in order for the benefit of readers.

The original Mackinaw Trail was an Indian path that ran from Saginaw north through the interior to present-day Mackinaw City, then across the Straits and on to Sault Ste. Marie. Most of this distance was surveyed for a road in 1835, but it was not until decades later that it was actually made passable for vehicular travel.

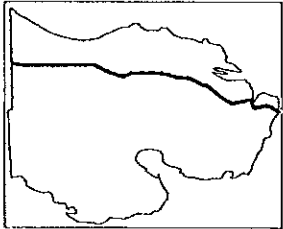
Though generally not known as the Mackinaw Trail today, evidence of this route's previous name can still be found on road signs in parts of Saginaw, Bay, Cheboygan, and Mackinac counties.

The contemporary Mackinaw Trail scarcely comes near the old track. For while the former course connected Saginaw Bay with the Soo, the present route runs from around Niles north to the Straits.



necessary.

To encourage use of what is today US-131, the Association dubbed this diversionary course the Mackinaw Trail. In devising a symbol for the route that motorists could follow on



sign boards, the group adopted the Mackinaw Trail, the same logo used by the Grand Rapids & Indiana, the railroad that paralleled the highway.

As the number of cars traveling US-131 grew, the Association sought the government's blessing for its cause. In 1929, it convinced members of the Michigan House of Representatives to officially designate it the Mackinaw Trail, but the measure ultimately died in the Senate.

With the opening of the Mackinaw Bridge in 1957, state interest was focused on the old Indian word. Attempting to capitalize upon this situation, the legislature was once again asked by promoters to bless their naming of the road. The result was Public Act 170 of 1959, a statute declaring US-131 from Indiana to Petoskey, and US-31 from Petoskey to the Straits, the Mackinaw Trail.

Some alterations to this status occurred in 2001 when the Legislature passed Public Act 142. This piece of lawmaking essentially left the course of the Trail intact but it officially modified the name of the road from "Mackinaw" to "Mackinac." While the slight change in spelling may have affected how some travelers pronounced the word, it certainly did not detract in any way from the pleasure they experienced from the drive.

The latest chapter in this route's saga occurred in 2004 under color of Public Act 138. This statute declared that the portion of trunk line US-131 from Kalaska to Petoskey, and the segment of US-31 from Petoskey

north to the Straits, would henceforth be known as the "Green Arrow Route-Mackinac Trail." Some people subsequently questioned the wisdom of having a compound road name whose

signboards will be nearly as long as the highway itself. Coordinates: F-N/9-10

MANITOU TRAIL

The Algonquin Indians of the Great Lakes region worshipped or venerated forces with supernatural powers. These gods or spirits were called Manitous, and as such they were objects of religious awe and reverence. These masters of life—if appealed to or appeased—could make the hunt successful, the warrior strong in battle, and the perilous journey safe.

Since such deities played a major role in ancient Indian culture, it is not surprising that references to them would appear in the territories once inhabited by indigenous peoples. Here in Michigan, for example, there is Manitou Island off Keweenaw Point, Lake Manitou (Leelanau, Oakland and Shawassese counties), Manitou Passage (in eastern Lake Michigan), Manitou Payment Point (Mackinac County), the village of Manitou Beach (Leelanau County), plus a township and a former county (1855-1895).

By far the most famous landforms carrying the Manitou name are the North and South Manitou Islands just west of Leland. According to Indian lore, these large glacial remnants in Lake Michigan represent two drowned clubs who tried to follow their mother (Sleeping Bear) on a swim from the Wisconsin shore east to the Empire Dunes complex. As an aside, it is also worth noting here Manitoulin Island in northern Lake Huron. Though not within Michigan's borders, this largest freshwater island in the world is just on our doorstep.

In addition to all of these physical and cultural features named Manitou, there was also a long stretch of pavement possessing this title. The story of this christening goes back to 1913, when trunk line M-22 became the first state highway established in Benzke, Leelanau and Mackinac counties. Despite its early presence on the



transportation scene, route M-22 was not heavily used because most drivers seemed to prefer riding on the nearby alternative US-31.

In an effort to attract more vehicles to the Lake Michigan shoreline drive, the M-22 Association was founded in February of 1953. The purpose of this organization was to increase traffic along the coastal road by publicizing its virtues through advertising and other promotional activities.

Before touting the benefits of a spin in the family car along M-22, the route's backers figured they first needed a "catchy" name for the highway. The Association ran a contest to find the best title for the road, and on 15 April 1953 its board of directors chose "Manitou Trail" out of more than 500 entries.

Almost immediately special brochures were printed up and placemats produced boasting travel on scenic M-22. And for a number of years thereafter advertisements could also be seen in various venues in favor of the winding vehicular path along the northwestern Lower Peninsula shore. But before the old Indian name could become popular with the motoring public, the assets of the Association became unequal to the task of championing a road off the beaten path. The sponsoring group eventually dissolved due to funding problems and the Manitou Trail found itself beyond the help of the great spirit gods of the Native Americans.

Coordinates: F-H/8-9

Exhibit 9 to MDOT's MSJ



MICHIGAN

**manual of uniform
traffic control devices**

MICHIGAN DEPARTMENT OF STATE HIGHWAYS ● MICHIGAN DEPARTMENT OF STATE POLICE

ERRATA

MICHIGAN MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES

3RD REVISION

Publication of the 3rd Revision to the Michigan Manual of Uniform Traffic Control Devices has the following errors which require correction:

1. The BUS STOP symbol sign, page 58a, should have a black transit logo if a logo is utilized.
2. The supplemental NO PARKING educational plaque, page 62, shall have red legend and border on white background rather than black legend and border as shown.
3. Figure 3-10c, page 231, the identification of the LANE ENDS MERGE RIGHT sign and the Pavement Width Transition symbol sign should be transposed.
4. The General Information Signs (I Series), pages 139 through 141c, shall have white legend on green background; except State Police/Sheriff Dept. Signs, 17-1 and 17-2, shall have white legend on blue background. The 17-3, 17-4 signs shall remain as shown.

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E. V. ERICKSON
CHAIRMAN
CHARLES H. HEWITT
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PETER B. FLETCHER
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WILLIAM G. MILLIKEN, GOVERNOR

DEPARTMENT OF STATE HIGHWAYS

STATE HIGHWAYS BUILDING - POST OFFICE DRAWER K - LANSING, MICHIGAN 48904

JOHN P. WOODFORD, STATE HIGHWAY DIRECTOR

October 1, 1973

To: Manual Recipient

From: John P. Woodford, Director
Michigan Department of
State Highways

John R. Plants, Director
Michigan Department of State Police

Subject: 1973 Edition of the Michigan Manual of Uniform Traffic Control
Devices

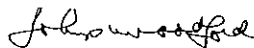
The 1973 edition of the Michigan Manual of Uniform Traffic Control Devices includes recent changes in national standards relating to traffic control device design, construction, and application on all public highways and streets throughout the State of Michigan. In accordance with Section 608, Act 300, P.A. 1949 as amended, the provisions included in this Manual are the standards to be adopted by the State, counties, townships and municipalities.

If you are an official of a municipality or other governmental agency, and you do not personally have a direct need to retain your copy of this publication, we suggest that you make it available to that person in your organization most concerned with highway traffic operations. We would appreciate being advised if you transfer your copy of the Manual to another individual or if you change your address so that distribution records can be kept current. Future revisions can then be appropriately directed.

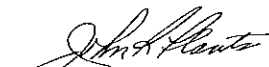
If additional copies of the Manual are desired, they can be obtained for the production cost of \$9.00 each. Checks should be made payable to the State of Michigan. Notification of address change or Manual transfer, as well as request for additional copies, should be directed to the Contracts Section, Publications Unit, Michigan Department of State Highways, Drawer K, Lansing, Michigan, 48904.

During the next few months, the Michigan Department of State Highways will be conducting workshops at various locations throughout the State for the benefit of selected local authorities who have responsibilities for certain phases of traffic operations on public highways and streets. If you have such responsibilities, we urge you to become familiar with provisions included in the Michigan Manual and plan to attend a workshop when it is held in your area.

We believe this Manual offers the best means of attaining traffic control device uniformity on all roads and streets, thereby increasing the comfort and safety of all highway users.

 Director

Michigan Department of State
Highways

 Director

Michigan Department of State
Police



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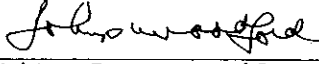
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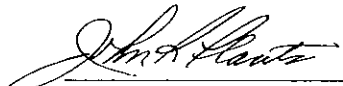
1973 EDITION

MICHIGAN MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES
ADDENDUM

In section 2B-35, a sign with the legend RIGHT TURN ON RED AFTER STOP (R10-9) is included. According to section 612 (d) (2), Act 300, P.A. 1949, as amended, a red flashing arrow is the only traffic control device which will permit a driver to make a right turn when facing a steady red signal indication.

At the present time, legislation is being considered that would provide for permitting the R10-9 sign as well as the red flashing arrow to be used to designate locations where a right turn may be permitted with a steady red signal indication displayed. However, until such legislation has been approved, the red flashing arrow is the only device available to permit right turns in the face of a steady red indication. The R10-9 sign is not to be used as outlined in section 2B-35 and other sections of the 1973 edition of the Michigan Manual of Uniform Traffic Control Devices until legislation permitting the sign has been enacted.

 Director
Michigan Department of State Highways

 Director
Michigan Department of State Police

October 1, 1973

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**MICHIGAN MANUAL OF
UNIFORM TRAFFIC
CONTROL DEVICES
1973 EDITION**



Prepared By:
**MICHIGAN DEPARTMENT
OF STATE HIGHWAYS**
JOHN P. WOODFORD, Director

In Conjunction With
**MICHIGAN DEPARTMENT
OF STATE POLICE**
JOHN R. PLANTS, Director

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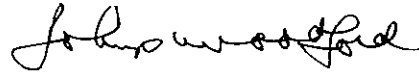
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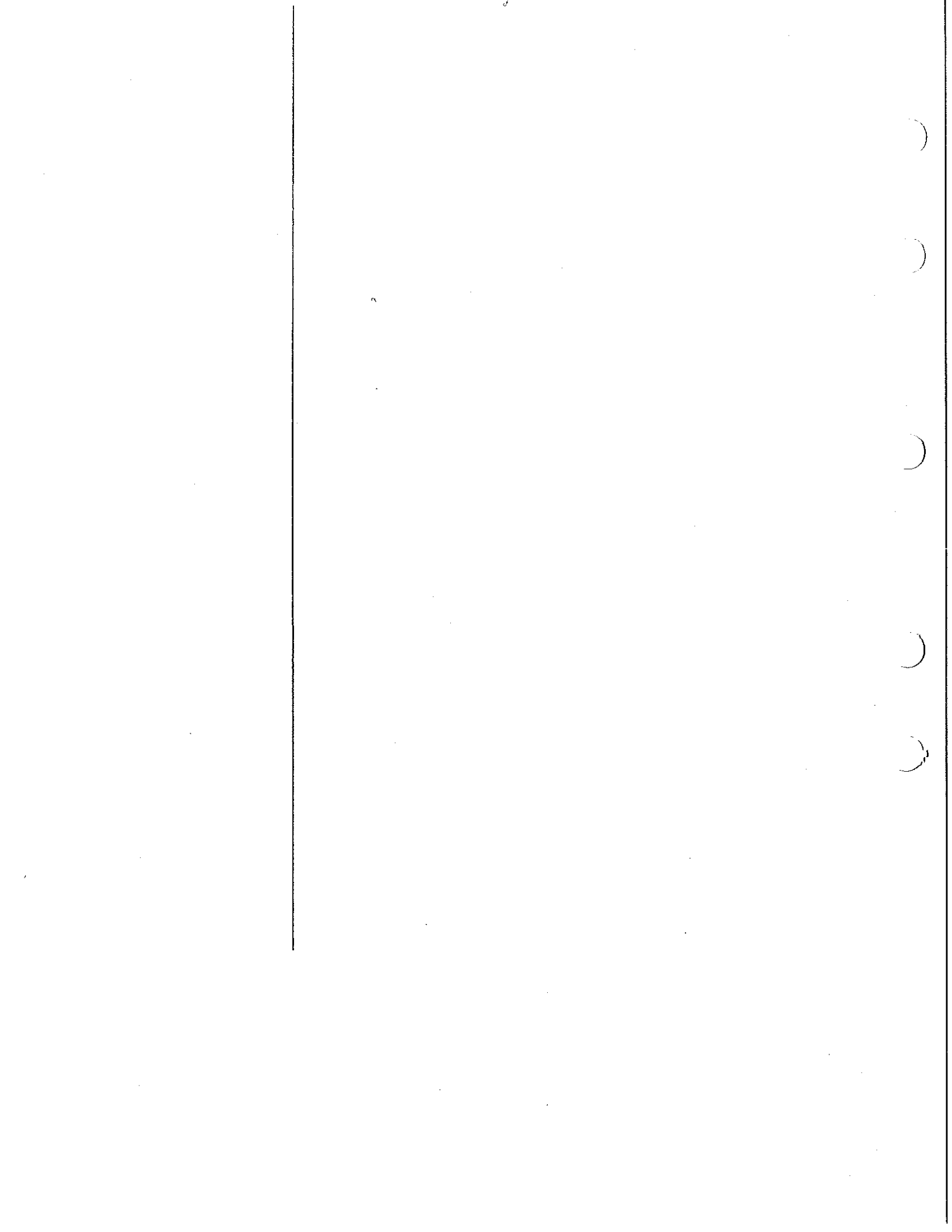
CERTIFICATION

In accordance with Section 608, Act 300, P.A. 1949 as amended, we hereby certify that the provisions of this Manual constitute the prescribed standards of design, construction and application of traffic control devices for use upon highways within this State and declare these to be the standards to be adopted by the State, counties, townships, and municipalities.

 Director
Michigan Department of State Highways

 Director
Michigan Department of State Police

October 1, 1973



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MICHIGAN MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES

INTRODUCTION

Traffic control devices are all signs, signals, markings, and devices placed on or adjacent to a street or highway by authority of a public body or official having jurisdiction to regulate, warn, or guide traffic.

The need for high uniform standards was recognized long ago. The American Association of State Highway Officials (AASHO) published a manual for rural highways in 1927 and the National Conference on Street and Highway Safety published a manual for urban streets in 1929. But the necessity for unification of the standards applicable to different road and street systems was obvious. To meet this need, a joint committee of the American Association of State Highway Officials and the National Conference on Street and Highway Safety developed, and published in 1935, the original edition of the National "Manual on Uniform Traffic Control Devices"(MUTCD). That committee, though changed from time to time in organization and personnel, has been in continuous existence and has been responsible for periodic revisions to the National MUTCD.

The first "Michigan Manual of Uniform Traffic Control Devices" was issued in 1939 by State Highway Commissioner Murray D. Van Wagoner and State Police Commissioner Oscar G. Olander. The Michigan Manual was revised and expanded in 1953, and again in 1963. This, then, is the fourth edition of the "Michigan Manual of Uniform Traffic Control Devices".

In the interest of national uniformity, the Michigan Manual is patterned after and, insofar as Michigan law will permit, conforms very closely with the 1971 edition of the National MUTCD, issued by the Federal Highway Administration of the U.S. Department of Transportation.

This 1973 edition of the Michigan Manual, under the provisions of the Michigan Vehicle Code (Act 300, P.A. 1949, as amended), revises the standards for traffic control devices for use in the State of Michigan and supersedes all previous editions. Unless otherwise provided either herein or by federal compliance schedules, all traffic control devices hereafter erected shall conform to this Manual.

In recognition of the proven international value and need for symbols, and to present a uniform and better understood system of signing, this 1973 revision includes a wider use of symbols, both in the regulatory and warning series. Color coding is employed more extensively in signs and to define direction of travel by pavement markings.

PART I. GENERAL PROVISIONS

IA-1 Requirements of Traffic Control Devices

This Manual sets forth the basic principles that govern the design and usage of traffic control devices. These principles appear throughout the text in discussions of the devices to which they apply, and it is important that they be given primary consideration in the selection and application of each device.

The Manual presents traffic control device standards for all streets and highways regardless of type or class or the governmental agency having jurisdiction. Where a device is intended for limited application only, or for a specific system, the text specifies the restrictions on its use.

To be effective, a traffic control device should meet five basic requirements. They are:

1. Fulfill a need.
2. Command attention.
3. Convey a clear, simple meaning.
4. Command respect of road users.
5. Give adequate time for proper response.

In the case of regulatory devices, the actions required of motorists and pedestrians are specified by State statute or by local ordinance or resolution. Uniformity of meaning is vital to effective traffic control devices. Meanings ascribed to devices in this Manual are in accord with the Michigan Vehicle Code.

Five basic considerations are employed to insure that these requirements are met. They are: design, placement, operation, maintenance, and uniformity.

Design of the device should assure that such features as size, contrast, colors, shape, composition, and lighting or reflectorization are combined to draw attention to the device; that shape, size, colors, and simplicity of message combine to produce a clear meaning; that legibility and size combine with placement to permit adequate time for response; and that uniformity, reasonableness of the regulation, size and legibility combine to command respect. In the design of a device, minor modifications of the specified design elements may be made as necessary to fit special conditions, provided that the essential appearance characteristics are met.

Placement of the device should assure that it is within the cone of vision of the user so that it will command attention, that it is positioned with respect to the point, object, or situation to which it applies to aid in

conveying the proper meaning; and that its location, combined with suitable legibility, is such that a driver traveling at normal speed has adequate time to make the proper response.

Operation or application should assure that appropriate devices and related equipment are installed to meet the traffic requirements at a given location. Furthermore, the device must be operated and placed in a uniform and consistent manner to assure, to the extent possible, that the motorist can be expected to respond properly to the device, conditioned by his previous exposure to similar traffic control situations.

Maintenance of devices should be to high standards to assure that legibility is retained, that the device is visible, and that it is removed if no longer needed. Clean legible, properly mounted devices in good working condition command the respect of motorists and pedestrians. In addition to physical maintenance, functional maintenance is required to adjust needed traffic control devices to current conditions and to remove those which are not needed. The fact that a device is in good physical condition should not be a basis for deferring needed replacement or change. Furthermore, carelessly executed maintenance can destroy the value of a group of devices by throwing them out of balance. For example, replacement of a sign in a group or series by one that is disproportionately large may tend to deprecate others in the vicinity.

Uniformity of traffic control devices simplifies the task of the road user because it aids in recognition and understanding. It aids road users, police officers, and traffic courts by giving everyone the same interpretation. It aids public highway and traffic officials through economy in manufacture, installation, maintenance and administration.

Simply stated, uniformity means treating similar situations in the same way. The use of uniform traffic control devices does not, in itself, constitute uniformity. A standard device used where it is not appropriate is as objectionable as a nonstandard device; in fact, it may be worse, in that such misuse may result in disrespect for the device at those locations where it is used properly.

1A-2 Responsibility for Traffic Control Devices

The responsibility for traffic control devices rests with many governmental jurisdictions. However, traffic control devices placed and maintained by State and local officials are required by statute to conform to the Michigan Manual of Uniform Traffic Control Devices. Section 608 of the Michigan Vehicle Code contains the following pertinent provision:

"The state highway commissioner and commissioner of state police shall adopt a manual and specifications for a uniform system of traffic-control devices consistent with the provisions of this chapter for use upon highways within this state. Such uniform system shall

correlate with and so far as possible conform to the system then current as approved by the American Association of State Highway Officials and such manual may be revised whenever necessary to carry out the provisions of this act. It is hereby declared to be the policy of the state of Michigan to achieve, insofar as is practicable, uniformity in the design, and shape and color scheme of traffic signs, signals and guide posts erected and maintained upon the streets and highways within the state with other states."

1A-3 Engineering Study Required

The decision to use a particular device at a particular location should be made on the basis of an engineering study of the location, notwithstanding requirements specified throughout this Manual. Thus, while this Manual provides standards for design and application of traffic control devices, the Manual is not a substitute for engineering judgment.

Qualified engineers are needed to exercise the engineering judgment inherent in the selection of traffic control devices, just as they are needed to locate and design the roads and streets which the devices complement. Jurisdictions with responsibility for traffic control that do not have qualified engineers on their staffs should seek assistance from the Michigan Department of State Highways, their county, a nearby large city, or a qualified traffic engineering consultant.

1A-4 Meanings of "Shall," "Should" and "May"

In the Manual sections dealing with the design and application of traffic control devices, the words "shall," "should" and "may" are used to describe specific conditions concerning these devices. To clarify the meanings intended in this Manual by the use of these words, the following definitions apply:

1. SHALL – A mandatory condition. Where certain requirements in the design or application of the device are described with the "shall" stipulation, it is mandatory when an installation is made that these requirements be met.
2. SHOULD – An advisory condition. Where the word "should" is used, it is considered to be advisable usage, recommended but not mandatory.
3. MAY – A permissive condition. No requirement for design or application is intended.

1A-5 Developing New Standards and Interpretation and Revision of Existing Standards

Advances in technology will produce changes in the highway, the motor vehicle, and in driver proficiency. As a result, portions of the system

of control devices shown in this Manual will gradually become obsolete. In addition, unique situations often arise for device applications which may require interpretation or clarification of this Manual. It is important to have a procedure for recognizing these developments and for introducing new ideas and modifications into the system.

The following procedure will generally apply to the handling of interpretations, experimentation, and changes to the Michigan Manual of Uniform Traffic Control Devices.

1. A written request for clarification, permission to experiment, or change in Manual provisions should be forwarded to the Michigan Department of State Highways. When the request cannot be resolved at the State level, and it is judged the item can best be handled by the Federal Highway Administration, it will be processed through the American Association of State Highway Officials in accordance with Federal Highway Administration procedures.

2. All requests should contain the following information:

- a. A brief statement indicating what change, modification, or question is to be resolved.
- b. Any illustrations which would help to explain the request.
- c. Any supporting research data which is pertinent to the item to be reviewed.

3. Rulings on requests will be given as:

- a. Interpretation — this would generally be a clarification of intended applications of Manual requirements for specific situations.
- b. Approval as an alternate — this would be permission to use a new device or modification, even though the Manual prescribes a device for the same purpose. Generally, it would be expected that the proposed alternate would offer advantages over the device prescribed in the Manual.

c. Approval for experimentation — this would be permission to use, for test and evaluation, an unproven device or modification which appeared to be a sound idea. The type of information to be gathered during the test and evaluation of the device would be stated as part of the request and the gathering of these data would be a conditional part of the approval.

4. The Michigan Department of State Highways will be responsible for acknowledgement of all requests and dissemination of official rulings to the appropriate authority. When rulings involve changes in Michigan Manual provisions, revisions to this Manual will be issued. Generally, an annual revision will be issued including all changes for the preceding calendar year.

1A-6 Relation to Other Documents

Two publications are specifically designed to provide the content and language of legislation needed to give regulatory devices the same meaning in all jurisdictions. These are the Michigan Vehicle Code and the Uniform Traffic Code for Cities, Townships and Villages. Both Codes require the placing of signs or other traffic control devices to make some of their provisions effective, and both define the legal meaning of certain devices. The Michigan Vehicle Code directs State authorities to adopt a manual for a uniform system of traffic control devices, and the Uniform Traffic Code for Cities, Townships and Villages requires devices under municipal jurisdiction to conform thereto.

The standards in the Manual for Signing and Pavement Marking of the National System of Interstate and Defense Highways, published by the American Association of State Highway Officials, have been incorporated herein for freeway application, providing one document for all streets and highways.

Other documents, to the extent they are incorporated by specific reference, are made part of this Manual:

Standard Alphabets — Federal Highway Administration, 1966

Standard Color Charts — Federal Highway Administration, 1970

Standard Highway Signs — Federal Highway Administration or Michigan Department of State Highways

Institute of Traffic Engineers, Adjustable Face Vehicle Traffic Control Signal Head Standards, 1970

Association of American Railroads, Bulletin 6, Railroad Highway Grade Crossing Protection, 1966

Institute of Traffic Engineers, Adjustable Face Pedestrian Signal Head Standard, 1963

Other documents that are useful sources of information with respect to utilization of these standards include:

Traffic Engineering Handbook — Institute of Traffic Engineers

Highway Capacity Manual — Highway Research Board

A Policy on Geometric Design of Rural Highways — American Association of State Highway Officials

A Policy on Arterial Highways in Urban Areas — American Association of State Highway Officials

Manual of Traffic Engineering Studies — Institute of Traffic Engineers
Volume 12, Highway Safety Program Manual, Highway Design
Construction and Maintenance, Federal Highway Administration

Volume 13, Highway Safety Program Manual, Traffic Control Devices,
Federal Highway Administration

1A-7 Color Code

The following color code establishes general meanings for eight colors in a total of twelve colors that have been identified as being appropriate for use in conveying traffic control information. Central values and tolerance limits for each color are available.¹

The four colors for which no meaning has been assigned are being reserved for future applications. The meanings described in this Section are of a general nature. More specific assignments of colors are given in the individual Parts of this Manual relating to each class of devices.

Color Code:

RED—Stop or prohibition.
GREEN—Indicated movements permitted, direction guidance.
BLUE—Motorist services guidance.
YELLOW—General warning.
BLACK—Regulation.
WHITE—Regulation.
ORANGE—Construction and maintenance warning.
PURPLE—Unassigned
BROWN—Public recreation and scenic guidance.
STRONG YELLOW-GREEN—Unassigned.
LIGHT BLUE—Unassigned.
CORAL—Unassigned.

¹Available from the Federal Highway Administration, Washington, D.C. 20591.

D. GUIDE SIGNS – CONVENTIONAL ROADS

2D-1 Scope of Conventional Road Guide Sign Standards

Specifications for Conventional Road Guide Signs prescribed herein shall apply to any road or street other than an expressway or freeway.

2D-2 Application

Guide signs are essential to guide the motorist along streets and highways, to inform him of intersecting routes, to direct him to cities, villages, or other important destinations, to identify nearby rivers and streams, parks, forests, and historical sites, and generally to give him such information as will help him along his way in the most simple, direct manner possible.

2D-3 Color, Reflectorization, and Illumination

Except where otherwise specified herein for individual signs or groups of signs or markers, Guide signs on conventional roads and streets shall have a white message on a green background, or as an alternate for this class of roads only, a black message on a white background. In either case, there should be consistency of application on any given highway.

Requirements for reflectorization or illumination are stated under the specific headings for individual guide signs or groups of signs. General provisions are given in sections 2A-16 through 2A-18.

2D-4 Size of Signs

For most guide signs, the legend is so variable that there can be no rigidly standardized size. The sign size must be fixed primarily in terms of length of the message and the size of the lettering and spacing necessary for proper legibility. However, for signs with standardized designs, such as route markers, it is practicable to fix standard sizes.

Under some circumstances, particularly for overhead signs, the available space may limit sign width. A sign mounted over a particular roadway lane to which it applies may have to be limited in width to the width of the lane. Where vertical clearances are limited and standard sign design cannot be used, a reduced letter height, interline and edge spacing may be used. When a reduction in the standard size is necessary, the design used should be as nearly comparable to standards as possible.

2D-5 Lettering Style

The standard lettering for conventional highway signs is upper-case letters (sec. 2A-15). However, when letter height exceeds 8 inches, place names on guide signs should be composed of lower-case letters with an

initial upper-case letter. The initial upper-case letters shall be one and one-third time the "loop" height of the lower-case letters. Recommended designs have been developed for the upper-case and lower-case alphabets, together with tables of spacing.⁴

2D-6 Size of Lettering

For guide signs with varying legend, sign legibility is a direct function of letter size. The legibility distance must give the driver sufficient time to read the sign before he has passed it. Although, under the best conditions, a guide sign message can be read and understood in a brief glance, a reasonable safety factor must be allowed for inattention, blocking of view by other vehicles, unfavorable weather, inferior eyesight, or other causes for delayed or slow reading. On the other hand, the usual repetition of guide information on successive signs where conditions permit often gives a driver more than one opportunity to obtain the information he needs.

Though the reading time for any given sign varies greatly with the approach speed, standard lettering sizes should be consistent on any particular class of highways. The same conditions that induce lower speed — heavy traffic, frequent intersections or interchanges, unfavorable alignment, or extraneous distractions — usually create a need for greater legibility. Hence the size standards set forth are related to the type of highway rather than to variable speeds on any class of highways (Table II-1).

The minimum sizes specified should be exceeded where conditons indicate a need for greater legibility.

In rural districts on major routes, the principal legend on guide signs shall be in letters at least 7 inches in height. If desired, Destination signs (E11-4) and Mileage signs (E7-1) — standardized for special purposes on expressways and freeways — may be provided on conventional roads in rural districts for major highways. There should, however, be consistency of application for sign size on a given highway. On less important rural roads and on urban streets, the principal legend shall be in letters at least 5 inches high. Sign panels shall be large enough to accommodate the required legend without crowding.

Recommended layouts have been developed for standard highway signs showing interline, edge spacing and other specification detail. These layouts may be obtained from the Michigan Department of State Highways or from the Federal Highway Administration.

⁴ Available from the Federal Highway Administration, Washington, D.C. 20591.

2D-7 Amount of Legend

Regardless of letter size, the legend on a guide sign must be kept to a minimum to be legible at a glance during the few moments that a driver can turn his eyes from the road. Guide signs should be limited to three lines of principal legend. Where two or more signs are included in the same overhead display, extra effort should be made to further reduce and simplify the amount of legend.

"Principal legend" here includes only place names, route numbers, and street names. Symbols, action information, cardinal directions and exit numbers may make up other lines of legend, within reasonable limits.

2D-8 Arrows and Symbols

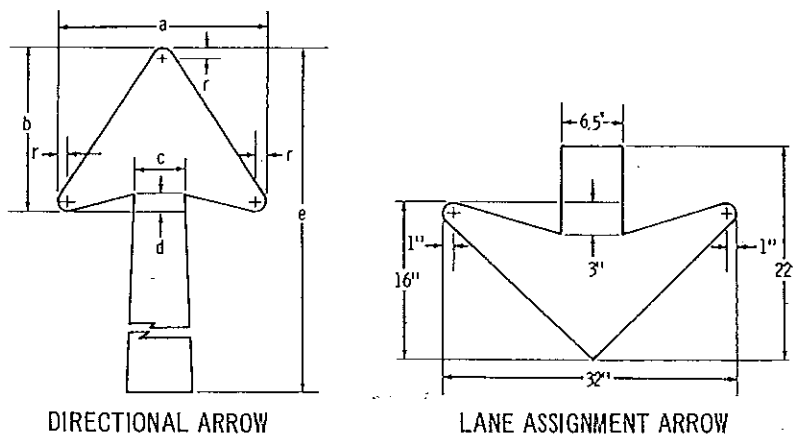
Arrows are used on many guide signs to indicate the directions toward designated routes or destinations. Arrows are pointed at any desired angle to convey a clear comprehension of the direction to be taken. At right-angle intersections, a horizontal arrow is appropriate. On a roadside sign, a directional arrow for a straight-through movement should point upward. For a turn, the arrow should be pointed upward as will best describe the design of the intersection, and at an angle related to the sharpness of the turn.

On overhead signs where it is desired to indicate a lane to be followed, the arrow shall point downward toward the center of that lane. Where a roadway is leaving the through lanes, the arrow shall point upward at an angle representative of the alignment of the exit roadway. If required, the through roadway lanes will be identified by downward-pointing arrows.

Downward-pointing arrows shall be used only on overhead guide signs which restrict the use of specific lanes to traffic bound for the destination(s) and/or route(s) indicated by these arrows. Downward-pointing arrows shall not be used unless an arrow can be pointed to each lane that can be used to reach the destination shown on the sign.

Arrows may be placed below the other sign legend, or to one side of it. At an exit, an arrow at the far side of the sign may help to emphasize the directional significance of the sign. For adequate legibility, it is recommended that the width across the barbs of the arrow be at least equal to the height of the largest letters on the sign, and for short downward-pointing arrows on overhead signs, about one and three-quarters times the letter height (figure 2-10).

Diagrammatic signing using arrows should approximate the intersection roadway geometrics, or the necessary part of it, in a clear, understandable manner to impart a glance-legible message (secs. 2E-20, 2E-24). Therefore, the standard arrow designs and applications may not be applicable to this type of signing. Other symbol designs should be essentially as shown in this Manual.



DIRECTIONAL ARROW

LANE ASSIGNMENT ARROW

Dimensions of Directional Arrow When Used With Various Letter Sizes

LETTER SIZE (Upper-Case)	Arrow Dimensions in Inches					
	a	b	c	d	e*	r
8"	8	5.51	1.90	0.74	10-14	0.44
10.67"	11	7.57	2.61	1.01	14-19	0.63
13.33"	14	9.64	3.32	1.29	17-23	0.75
16"	16	11.02	3.79	1.47	19-26	0.88

* Taper of $\frac{1}{2}$ " per ft. should be held constant for longer or shorter shaft lengths.

Figure 2-10. Dimensions of arrows on guide signs.

2D-9 Numbered Highway Systems

The purpose of numbering and marking highway systems is to identify routes and facilitate travel over the shortest and best roads.

The Interstate System and the United States (U.S.) System are numbered by the American Association of State Highway Officials, upon recommendation of the State highway departments. State and county systems are numbered by the appropriate authorities.

The basic guide for designating and numbering the U.S. System is the "Purpose and Policy in the Establishment and Development of United States Numbered Highways," published by the American Association of State Highway Officials.⁵

⁵ Available from the American Association of State Highway Officials, 341 National Press Building, Washington, D.C. 20004.

The principles of this policy should be followed in establishing other systems, with effective coordination between adjacent jurisdictions. Care should be taken to avoid the use of numbers or other designations which have been assigned to Interstate, U.S. or State routes in the same area. Overlapping numbered routes should be avoided, and the systems shall be given preference in this order: Interstate, United States, State and County.

2D-10 Route Markers and Auxiliary Markers

Route markers shall be used to identify and mark numbered highways, including Federal, State, or County roads, and park, forest, and other public roads. The markers for each system of numbered highways, which are distinctive in shape and color, shall be used only on that respective system and the approaches thereto.

To accomplish their purpose, route markers are usually mounted in assemblies which are formed when the route markers are accompanied by any of the various types of auxiliary markers.

Route markers, as well as any auxiliary markers which accompany them, shall be reflectorized for nighttime visibility as detailed in subsequent sections.

2D-11 Design of Route Markers (M1-1 to M1-7)

The design of route markers shall be established by the authority having jurisdiction. Specifications and provisions are as follows:

1. The Interstate Route Marker for use on intersecting highways and roads approaching an interchange with an Interstate route shall consist of a cutout shield, with the route number in white letters on a blue background, the word INTERSTATE in white letters on a red background, and white border and may contain the State name in white letters on a blue background (fig. 2-11). A 24-inch by 24-inch size is prescribed to accommodate route numbers with one or two digits, and a 30-inch by 24-inch size for route numbers having three digits.

2. The Off-Interstate Business Route Marker shall consist of a cutout shield carrying the number of the connecting Interstate route and the words BUSINESS (LOOP or SPUR). The legend and border shall be white on a green background, and the shield shall be of the same shape and dimensions as the Interstate Route Marker previously described (fig. 2-11). In no instance is the word INTERSTATE to appear on the Off-Interstate Business Route Marker. This marker may be used on a major highway that is not a part of the Interstate System, but one that serves the business area of a city from interchanges on the System.



Interstate
Route Marker
M1-1
24" X 24" (2-digit)
30" X 24" (3-digit)
(1½" and 2½" letters)
(10" numerals)



Off-Interstate
Business Loop Marker
M1-2
24" X 24" (2-digit)
30" X 24" (3-digit)
(1½" and 2½" letters)
(10" numerals)



Off-Interstate
Business Spur Marker
M1-3
24" X 24" (2-digit)
30" X 24" (3-digit)
(1½" and 2½" letters)
(10" numerals)

3. The U.S. Route Marker shall consist of a rectangular 24-inch by 24-inch or 30-inch by 24-inch plate, with black numerals on a white shield surrounded by a black background without a border (fig. 2-12). This marker shall be used on all U.S. routes and in connection with route marker assemblies on intersecting highways.

4. The Michigan Route Marker shall consist of a rectangular 24-inch by 24-inch plate, with a black letter "M" and numerals on a white diamond surrounded by a black background without a border (fig. 2-13). This marker shall be used on all State routes and in connection with route marker assemblies on intersecting highways.



U.S.
Route Marker
M1-4
24" X 24" (2-digit)
30" X 24" (3-digit)
(12" numerals)



State Route Marker
M1-6
24" X 24"
(3½" block letter M)
(8" numerals)

5. Wherever County road authorities elect to establish and identify a special system of important County roads, County road identification markers are to be designed and used as specified in the publication "A

Proposal for a Uniform County Route Marker Program on a National Scale.⁶ The Uniform County Route Marker shall be a pentagonal shape and shall consist of a reflectorized yellow legend (County name, route letter and number) and border on a reflectorized blue background, of a size compatible with other route markers used in common assemblies.

Signs of other designs may be used to designate County routes not a part of this special system of County roads, but such signs should be of a size comparable to the County Route Marker (M1-5).

6. The Forest Route Marker is designed in a trapezoidal shape and has white legend and border on a brown background. Its size shall be compatible with other route markers used in common assemblies. Forest Route Markers are intended for use on National park and forest roads.



County
Route Marker
M1-5
24" X 24"
(2" letters)
(8" route designation)

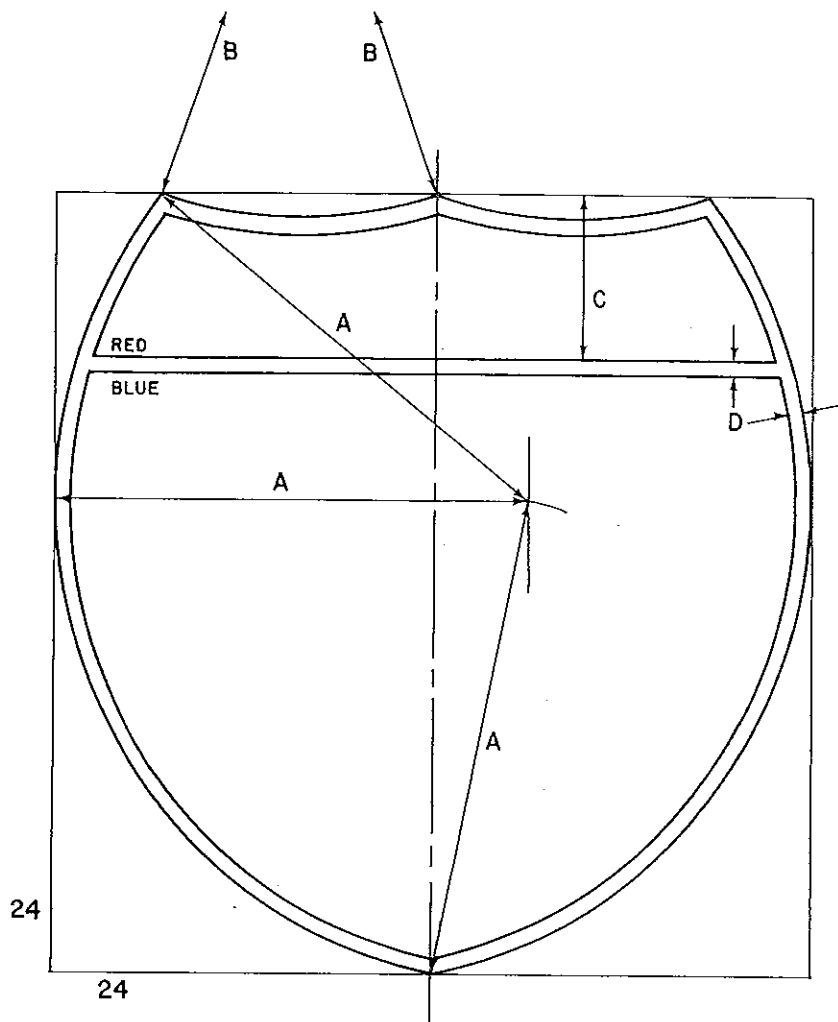


Forest Route Marker
M1-7
24" X 24"
(10" numerals)

Route markers of any type may be proportionally enlarged in any required size where greater legibility is needed. Where U.S. or State Route Markers are used as components of guide signs, only the outline of the shield or other distinctive shape should be used as shown in the illustration of the Combination Junction sign (sec. 2D-14).

Route markers shall be fully reflectorized as color design permits.

⁶Available from the National Association of Counties, Washington, D.C. 20006.



	A	B	C	D
24 X 24	15	15	5	1/2
30 X 24	17	24	5	1/2
36 X 36	22 1/2	22 1/2	7 1/2	3/4
45 X 36	25 1/2	36	7 1/2	3/4
48 X 48	30	30	10	1
60 X 48	34	48	10	1

Figure 2-11. Design of interstate and off-interstate route markers.

Exhibit 10 to MDOT's MSJ

HIGHWAY ROUTE MARKERS United States

[Home](#) [United States](#) [Canada](#) [Asia](#) [Europe](#) [Latin America](#) [Oceania](#)
[About this site](#)

State Highway Markers

Click on a thumbnail image to see a larger version of that image.

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[National highways](#)

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[Regional highways](#)

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Alabama



Alaska



Arizona



Arkansas



California



Colorado



Connecticut



Delaware

District of
Columbia

Florida



Georgia



Hawaii



Idaho



Illinois



Indiana



Iowa



Kansas



Kentucky



Louisiana



Maine



Maryland



Massachusetts



Michigan



Minnesota



Mississippi



Missouri



Montana



Nebraska



Nevada

New
Hampshire

New Jersey



New Mexico



New York



North Carolina



North Dakota



Ohio



Oklahoma



Oregon



Pennsylvania



Rhode Island



South Carolina



South Dakota



Tennessee



Texas



Utah



Vermont



Virginia



Washington



West Virginia



Wisconsin



Wyoming



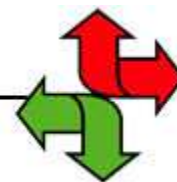
U.S. 40



I-95

Exhibit 11 to MDOT's MSJ

Manual on Uniform Traffic Control Devices (MUTCD)



Knowledge

[Knowledge](#)

The Evolution of MUTCD

Information for this article was developed from a series of articles by H. Gene Hawkins, Jr. published in the [ITE Journal](#) published between 1991 and 1994. Dr. Hawkins also maintains a [Web site](#) that contains scans of old MUTCD editions and predecessors of the MUTCD dating from 1927 to 1988, as well as a great deal of other information of historical interest regarding traffic control devices.

The arrival of the automobile early in this century started a revolution in travel - and traffic control devices have developed to keep 20th century travelers moving ever more safely to their destinations. Road signs were the first traffic control devices to direct travelers on their journeys. The evolution of these road signs provides a fascinating insight not only into the evolution of traffic control devices, but also to the pace of economic and social development in our Nation.

The Horseless Carriage Arrives

It was a bit like the old saying about being "all dressed up, and no place to go." The early days of the automobile found intrepid "tourers" out for a drive, only to wind up losing their way because directional signs were either nonexistent or they were broken, unreadable, or knocked down. In fact, as early as 1899, horseless carriage owners in New York City met at the Waldorf-Astoria Hotel for the purpose of forming an automobile club - the predecessor of the American Automobile Association - and part of their function was to place and maintain signs on principal local highways to guide drivers through the area or to specific sites.

Records indicate that in 1905, the Buffalo Automobile Club installed an extensive signpost network in the New York State. In 1909, the Automobile Club of California undertook the task of signing the principal highways within a 250-mile radius of San Francisco. These could be actual signs, or perhaps they were colored bands around a utility pole. Similar clubs conducted comparable efforts in local areas around the Nation. Unfortunately, competition for signing certain popular routes was fierce and organizations became increasingly aggressive as to which club would sign which routes. One study noted that for 40 to 50 percent of the more traveled roads, it was common to encounter as many as 11 different signs for one single trail or route.

But First, Some Other Firsts

While automobile clubs were busy developing early road signs, other entities were developing devices to control the flow of traffic. For example:

- 1911, a centerline is painted on a Michigan road.
- 1914, the first electric traffic signal is installed in Cleveland.
- 1915, the first STOP sign appears in Detroit.
- 1916, the Federal-Aid Act requires that a State have a highway department before it can get Federal money.
- 1918, Wisconsin is the first state to erect official route signs as part of its maintenance functions.

- 1920, the first 3-color traffic signal is installed in Detroit.

The First Signs of the Times

In the early 1920s, representatives from Wisconsin, Minnesota, and Indiana toured several States with the intent of developing a basis for uniform signs and road markings. The group reported its findings to the Mississippi Valley Association of Highway Departments (MVASHD) in 1932. Their efforts resulted in standards for sign shapes, some of which are still in use as we enter the 21st century.

These pioneers devised a plan to classify sign shapes according to the level of danger represented by highway situations. For example, round signs warned of approaching railroad crossings, which even then represented the most potential danger to the driver. The octagon advised of the next level of danger - the need to STOP for intersections. Diamond signs indicated more ordinary conditions that required drivers to be cautious. Rectangular signs provided direction or other regulatory information. All signs were black letters on white background and were limited to 2 feet (0.6 m) square - that was the maximum width of sign-making equipment. Because round and octagon shapes required the most cutting and wastage, they were chosen for the fewest installations. These shapes made sense because there was little illumination of signs and the rationale was that drivers would respond to the shape of the sign even when they couldn't see the letters.

In 1924, the First National Conference on Street and Highway Safety (NCSHS) improved on earlier efforts and proposed standardizing colors for traffic control devices. Again, many remain in use today. For example, signs with white letters on a red background indicated STOP. White letters on a green background signified proceed. Black letters on a yellow background advised caution. Black and white signs providing information on direction and distance were specified for every intersection and junction. One combination that didn't last was white letters on purple background, indicating an intersection!

The First Signing Manual

Also in 1924, the American Association of State Highway Officials (AASHO, the forerunner of AASHTO) took earlier efforts one step further by issuing a report that combined the previous efforts to standardize sign shapes and colors. The report recognized the superior visibility of the yellow background and advised its adoption for all danger and caution signs, including the STOP sign. The use of red was rejected because of its inadequate visibility at night. This report was also the first to propose the shield to designate U.S. highways.

The importance of the AASHO report is that it became the basis for the first guidebook, *Manual and Specifications for the Manufacture, Display, and Erection of U.S. Standard Road Markers and Signs*, in 1927. However, this manual addressed only use and design for signs on rural roads. Following a national survey of existing traffic control devices, the *Manual on Street Traffic Signs, Signals, and Markings* was published to address urban traffic control devices. This manual corresponded with the AASHO rural manual, except that material also addressed traffic signals, pavement markings, and safety zones. The manual also allowed smaller signs in urban areas, and the STOP sign was modified to allow red letters on a yellow background.

MUTCD, Vol. 1

It was immediately apparent that having two different manuals simply confused the attempt to standardize traffic control devices. Thus in 1932, AASHO and NCSHS formed the first Joint Committee on Uniform Traffic Control Devices (JC). In 1935, the first MUTCD was published. More accurately, it was mimeographed. The demand for the manual was so great, that a printed version was published in 1937. In comparison to the *Millennium Edition*, the 1937 printed version was only 166 pages; content was separated into four parts that addressed signs, markings, signals, and islands.

The 1935 edition set the standard for types of signs by classifying them as regulatory, warning, or guide signs. Regulatory signs were black on white rectangles (except the STOP sign was black on yellow or yellow on a red octagon); diamond-shaped slow-type signs warned drivers to slow down; signs that cautioned were square. The manual also promoted using symbols on signs because nighttime roadway illumination was becoming more common.

The 1935 MUTCD also defined some pavement markings. For example, centerlines were required only on approaches to hill crests with a clear view of less than 500 feet (152 m), short-radius curves, curves with restricted view, or pavements wider than 40 feet (12 m). Acceptable colors for centerlines were white, yellow, or black, depending on which provided the greatest contrast. It also supplied much-needed clarification on the number, color, and meaning of signal indications. The 3-color signal was adopted as the standard for signal lenses.

In November 1935, the first edition of MUTCD was approved as an American Standard.

MUTCD Editions Reflect Life in America

The 1935 MUTCD established the need for a manual that standardized the use and design of traffic control devices (TCDs). As the Nation grew and changed, the MUTCD has grown and changed. The manual has been revised approximately every decade to reflect that growth and change.

Early revisions were just that - supplements to the existing edition. For example, in 1939, the JC issued a 25-page supplement to the 1935 edition. The supplement recommended changes for sign illumination, speed signs, no-passing zone pavement markings, signal warrants, and pedestrian signals. And, although illumination was recommended, white reflectors (red for STOP signs) could be used to illuminate all signs.

The 1942, 208-page, MUTCD described the types of traffic control devices to be used during blackout conditions resulting from the war. Traffic control standards were not lowered for blackout conditions, but rather special blackout devices were to be used where necessary. For example, reflectorized beads were required for use on all pavement markings required for blackout conditions. Pavement markings were also used in lieu of many signs that would normally be illuminated. This, by the way, was the advent of using word messages in pavement markings.

As the end of the war neared, traffic engineers realized that the MUTCD had to be completely rewritten. Work on a peacetime edition began in 1944, and a new volume was published in 1948. The major format change in the postwar edition was reorganizing material so that every control device was addressed in only one place. There was also a concerted effort to simplify word signs, and a rounded-letter alphabet was adopted as standard for all signs.

The 1954 15-page supplement to the 1948 MUTCD included 47 revisions and a brief description of each. The most significant change is that the color for the STOP sign was white letters on red background, which resulted primarily from the development of new fade-resistant finishes. The 1954 manual also represents the shift from using mainly regulatory and warning signs on interstate highways to including guide signs. This manual also adopted the use of white letters on green background for Interstate highways.

New MUTCD Editions Signal America on the Move

Changes incorporated into the 1961 MUTCD truly supplement reflected a changing America. The text was 333 pages long and the manual had two new sections, one to address construction and maintenance operations, which complemented a major section addressing needs of the new Interstate Highway System. There was also a section included for civil defense signing.

A completely rewritten MUTCD premiered in 1971. Some of the most significant changes included adding definition of "should," "shall," and "may" requirements. Orange was designated for construction signing, yellow markings separated opposing traffic, and there was a wider use of symbol signs. School signs were also adopted.

The 1978 MUTCD contained two new parts that addressed highway-rail grade crossings and traffic control for bicycle facilities. There were also revisions addressing the fundamental safety principals concerning work zones, the need for traffic control plans, and an upgraded section on barricades and channelizing devices. New illustrations reinforced the signing and pavement marking standards.

Revise, Update, Amend

Succeeding publications of the MUTCD reflect the changing need of traffic control devices to accommodate increased traffic, higher speeds, more commercial traffic, and roads that serve travelers 24-

hours a day in all types of weather. The speed with which technology, traffic control, and traffic operations change makes the MUTCD a dynamic and constantly changing document. This makes it difficult for those who depend on the MUTCD to remain current with new and changing standards and guidance. By publishing the MUTCD on the Internet, users have greater access to the most current information.



Exhibit 12 to MDOT's MSJ

Great Lakes Circle Tour

The
Circle Tours

Circle Tour
Travel Info.

State &
Provincial Tourism

Technical
Information

In Depth: News
& Articles

About
This Site

[Great Lakes Circle Tour](#) > [The Circle Tours](#) > Overview & Introduction

Overview & Introduction

The Great Lakes Circle Tours (GLCT) are a total of four routes circling each of the Great Lakes with the exception of Lake Ontario. These routes were conceived as an aid for travellers who wished to stick close to the shorelines of the lakes in their journeys as well as a vehicle for state, regional, and local tourism organizations to promote travel and activities along the shores of each lake. After the routes were established, many local and regional tourism organizations began tying their promotional activities into the Circle Tours.

The Lake Superior Circle Tour was the first route established in 1986, with Michigan following in 1987, then Huron and Erie following in the early 1990s.

In 1985, Michigan First Lady Paula Blanchard, an advisor to the Michigan Department of Commerce at the time, pitched the idea to establish a tour route around Lake Superior at a tourism conference that fall. Soon after, MDOT drafted a design for the signs and, working with the transportation departments in Wisconsin, Minnesota and Ontario, helped devise a route around the largest of the Great Lakes.

Once the Lake Superior Circle Tour signs had been erected in 1986, work began in earnest for a Lake Michigan Circle Tour, becoming a reality just one year later. Then in 1988, the Great Lakes Commission approved an overarching "Great Lakes Circle Tour" to help coordinate the various routes among the eight Great Lakes states and the province of Ontario.

The GLCT routes have generally been designated by each state or provincial transportation department or ministry along the state or provincial highway closest to the Great Lake shoreline. In a few areas, though, the Circle Tour is signed along locally maintained roadways and a few select GLCT Loops and Spurs, signed with special brown signs, have also been designated.

Since their creation, however, the Circle Tours have seen varying levels of success and waning support from the Great Lakes Commission has left their continued existence in the hands of the individual jurisdictions. Michigan, Wisconsin, Illinois, and Ohio still sign and maintain their portions of the Circle Tour routes, while signage Minnesota, Ontario and Pennsylvania is now less than complete or even missing in some areas.

Back to: [The Circle Tours](#).



Michigan Highways

Michigan's
Highways

Trunkline
Route Listings

County Routes
& Listings

Other
Routes

In Depth: News
& Articles

About
This Site

[Michigan Highways](#) > [Other Routes](#) > [Great Lakes Circle Tours](#) > Lake Michigan Circle Tours

Lake Michigan Circle Tour

After Lake Superior's loosely-organized "circle route" which had been promoted by local tourist organizations since the 1960s became the first officially signed Great Lake circle tour route, the Lake Michigan Circle Tour (LMCT) was not far behind. The only single-nation Circle Tour (Lake Michigan being the only Great Lake completely within the US, of course), the LMCT also has the most mileage of any Circle Tour in the state of Michigan: 616 miles.



Working in conjunction with the Michigan Department of Transportation (MDOT), the [West Michigan Tourist Association \(WMTA\)](#) helped to make the first of the official Great Lakes Circle Tours a reality. On the MDOT side, Jack Morgan, assistant to the department's deputy director, introduced the concept of a Circle Tour in 1987. Just 14 months later, agreement had been reached on a route and signs to be posted along the 1,100-mile tour completely circling Lake Michigan. The WMTA filled the need for a guidebook and when the Chicago Tribune and Milwaukee Journal ran articles in 1988 about the new Circle Tour, 150 callers from the Chicagoland area along deluged the WMTA staff the next Monday morning, requesting the guide. Two days later, 700 guidebook requests came in from Illinois and Wisconsin and the following day an additional 1,000 phone and mail requests poured in to their offices.

Present-Day Concerns and the Tri-Modal Corridor

In November 2012, the inaugural meeting of the Lake Michigan Trails Conference was convened in Saugatuck by Western Michigan University professor Dave Lembeck. Lembeck is championing both the completion of a Lake Michigan "water trail" for kayakers, canoeists and other paddlers around the lake's entire shoreline as well as an interconnection between the water trail, the new U.S. Bicycle Route 35 (USBR-35) and the existing Lake Michigan Circle Tour. The envisioned "Tri-Modal Corridor" would accommodate non-motorized transportation and recreation via the "water trail" in the Lake and the bicycle route on land. The LMCT would help link the various bicycle trailheads and water access points together.

Unfortunately, actual signage along the Lake Michigan Circle Tour route has deteriorated over time. While Wisconsin has generally kept the Circle Tour reasonably well posted, signage in Michigan and Illinois is lacking and long segments of the LMCT in Indiana are now completely unsigned. Indeed, when the numbered highways that the Circle Tour ran along were rerouted in Northwest Indiana in recent years, the LMCT route markers were regrettably not relocated or replaced. Furthermore, highway signing standards may have changed to the point where including Circle Tour route markers alongside the other numbered highway markers on freeway signage is no longer allowed or encouraged. While hundreds of the standard Circle Tour markers are still found alongside the roadside in Michigan, some locations where the LMCT changes directions (e.g. transitions from one highway to another) are now under-signed or completely unsigned altogether. This was cited as a major concern by the attendees at the 2012 Lake Michigan Trails Conference.

Conference attendees vowed to support the ongoing efforts of the existing organizations assembling the resources necessary to complete the Lake Michigan Water Trail and the signed U.S. Bicycle Route network now underway around the periphery of the Lake. Additionally, attendees cited a need to renew coordination and oversight of the Great Lakes Circle Tour Program within the various state departments of transportation, the Ontario Ministry of Transportation and the *de facto* coordinating agency, the Great Lakes Commission. Several of those in attendance pledged resources and a commitment to both preserve the Circle Tour routes and look for ways to improve the coordination and signage into the future. Creating background documentation, documenting and recording the officially-adopted Circle Tour route, clarifying route signage standards and formalizing a route maintenance policy are just some of the concepts put forth in the revitalization of these important tourist routes.

Lack of Official Routing & Erroneous Information

Unfortunately, the Great Lakes Commission's own description of the LMCT is largely incorrect, both in terms of the actual route and because of numerous typos and incorrect community names. For example, as of last



check (March 2013), errors in just the "Lake Michigan Circle Tour Road Route" section of the Commission's [LMCT page](#) give the following description of the route in Lower Peninsula:

ROUTE: Follow I-96E to Holland; US-31N to Manistee; MI-22 to Traverse City; US-31 to Petoskey; MI-119 to the town of Cross Bridge; C66 to US-31; cross the Mackinaw Bridge (toll) into the Upper Peninsula

The first major issue is to get to Holland from Indiana, one needs to first follow US-12 East (not listed) before transitioning onto I-94 East (not listed), then exit that route and follow BL I-94 and M-63 through St Joseph and Benton Harbor (not listed), transitioning then onto I-196/US-31 North (also not listed!) with a loop through downtown South Haven via BL I-196 (not listed), then back to I-196/US-31 North, before exiting onto US-31 North to reach Holland. On top of that, I-96 doesn't go to Holland at all!

From Holland to Petoskey the directions are somewhat better, although loops through downtown Muskegon, the downtowns of Whitehall and Montague, and through Pentwater via the respective BUS US-31 routings are omitted. However, from Petoskey, the LMCT has **never** run along M-119 and even if it did, the directions erroneously call the community of Cross **Village**, Cross **Bridge**, instead! (It's never been called Cross *Bridge* since its was founded in 1830!) But after omitting the connection from US-31 onto I-75 once US-31, the name of one of Michigan's most famous landmarks is misspelled: the Mackinac Bridge! If these directions are this bad—and have been since it was first reported to the Great Lakes Commission in the late 1990s (a *decade and a half ago!*)—how trustworthy is the rest of the information!

Lake Michigan Circle Tour Route

The route of the mainline LMCT in Michigan follows signed state trunkline routes in its entirety, although in some places the nearest state highway to the Lake Michigan may be several miles away. Along with the primary Circle Tour route, several marked "Lake Michigan Circle Tour Loops" have been posted using white-on-brown signs. These loops may follow state highways or utilize city streets and county roads running closer to the shoreline. These loop routes are detailed below the mainline route below:

- The LMCT enters Michigan from Indiana on [US-12](#) south of New Buffalo and proceeds northerly through New Buffalo to [I-94](#).
- The route leaves [US-12](#) and continues northerly on [I-94](#) from Exit 4 toward St Joseph.
- At Exit 23, the route exits [I-94](#) and continues northerly into downtown St Joseph via [BL I-94](#).
- In St Joseph, the LMCT continues northerly on [M-63](#) into northern Berrien Co.
- At the northern terminus of [M-63](#), the circle tour proceeds northerly on [I-196/US-31](#) toward South Haven.
- The route leaves [I-196/US-31](#) at Exit 18 and loops through South Haven using [BL I-196](#).
- On the east side of South Haven, where [BL I-196](#) ends at [I-196/US-31](#) Exit 20, the route continues north into Allegan Co on [I-196/US-31](#).
- While the LMCT remains on [I-196/US-31](#) at Saugatuck/Douglas, a locally-designated [LMCT Harbor Tour](#) loop route is signed concurrently with [A-2/Blue Star Hwy](#) between Exits 36 and 41.
- The circle tour continues northerly on [US-31/BL I-196](#) toward Holland at Exit 44 when [I-196](#) splits off to the east.
- After splitting from [I-196](#) south of Holland, the route continues northerly following [US-31](#) past Holland and through Grand Haven and toward Norton Shores.
- At the jct of [US-31](#) & [I-96](#), the LMCT leaves [US-31](#) and follows [BUS US-31](#) through downtown Muskegon.
- Northeast of downtown Muskegon, the route continues northerly via [M-120](#) to North Muskegon and northeasterly back to [US-31](#).
- Back on [US-31](#), the circle tour continues northerly toward Ludington, leaving [US-31](#) twice: once to follow the route of [BUS US-31](#) through the downtowns of Whitehall and Montague in northern Muskegon Co; and again to follow the route of [BUS US-31](#) through downtown Pentwater in Oceana Co.
- At the end of the [US-31](#) freeway near Ludington, the LMCT turns east following [US-10/US-31](#) toward Scottville.
- At Ludington rather unique [LMCT Loop Route](#) begins, although it is currently unsigned: From [US-31](#), the Loop route continues westerly along [US-10](#) into downtown Ludington, then travels straight across the Lake Michigan via the *S.S. Badger* carferry!
- At Scottville, the circle tour turns northerly again to follow [US-31](#) toward Manistee, although a locally-designated [LMCT Loop Route](#) formerly continued east on [US-10](#) into downtown, then northerly via Old US-31 back to [US-31](#) and the LMCT. (**NOTE: The LMCT Loop route through Scottville was removed/decommissioned some time in late 2004 or early 2005 and no longer exists.**)
- The route continues northerly from Scottville and through Manistee on [US-31](#).
- Northeast of Manistee, the route turns northerly to follow [M-22](#) through Onekama, Frankfort and Empire.
- Northeast of Empire, a [LMCT Loop Route](#) leaves [M-22](#) to follow [M-109](#) past Glen Haven, rejoining [M-22](#) at Glen Arbor. (The mainline LMCT remains on [M-22](#) between Empire and Glen Arbor.)
- From Glen Arbor, the circle tour continues northerly on [M-22](#) through Leland to Northport. At Northport, [M-22](#) and the LMCT turn nearly 180 degrees to head southerly into Traverse City.

- At Traverse City, the LMCT returns to [US-31](#) and continues northerly via [US-31](#) through Elk Rapids, Charlevoix and Petoskey and on toward the Mackinac Bridge.
- South of Mackinaw City, where [US-31](#) ends, the route continues northerly on [I-75](#) crossing the [Mackinac Bridge](#) and entering the Upper Peninsula at St Ignace. Between Mackinaw City and St Ignace, the LMCT is joined by the [Lake Huron Circle Tour](#).
- In St Ignace, the LMCT continues westerly along [US-2](#) for more than 140 miles through Manistique and Gladstone to Escanaba.
- At Escanaba, the circle tour continues southwesterly via [M-35](#) along the Green Bay shoreline to Menominee
- The route continues south on [US-41](#) through Menominee and enters Wisconsin at Marinette.
- Continue on the [Lake Michigan Circle Tour route](#) into Wisconsin at the [Wisconsin Highways](#) website.

Note: The "Circle Tour Road Route" description from the [GLIN website](#) is not only vague, but incorrect! While a good alternate route, the LMCT does **not** use [M-119](#) and [C-66](#) through Harbor Springs and Cross Village, [I-94](#) does not go to Holland, what is called "Cross Bridge" is actually "Cross Village"... and, for Pete's sake, it's the *Mackinac* Bridge (not "Mackinaw Bridge!"). The route included on this website has been personally researched by the website author in the field.

Lake Michigan Circle Tour Loop Routes

Lake Michigan Circle Tour - Harbor Tour (Saugatuck/Douglas)

A locally-designated loop route which helps circle tour motorists navigate into and through the off-route communities of Saugatuck and Douglas in northwestern Allegan Co. While most local loops are designated as "Loop Routes" off the mainline circle tour, this particular route is actually designated as a "Harbor Tour," although it behaves like any other Loop Route. Also, as with all Loop Routes, this route is designated with white-on-brown circle tour signs, using the same LMCT "logo." The route is 7.7 miles long:



- The LMCT Harbor Tour begins at [I-196/US-31/LMCT](#) at Exit 34 near Ganges (south of Douglas).
- The Harbor Tour route proceeds easterly from the freeway along M-89/124th Ave to A-2/Blue Star Hwy.
- The route turns northerly on [A-2/Blue Star Hwy](#) into Douglas, passing just west of the downtown area.
- The loop route then crosses into Saugatuck, still via [A-2/Blue Star Hwy](#), passing just east of the downtown.
- The route ends when it meets back up with [I-196/US-31/LMCT](#) at Exit 41 northeast of Saugatuck.

Lake Michigan Circle Tour - Loop Route (S.S. Badger carferry)

While most Lake Michigan Circle Tour spur and loop routes simply involve an alternate highway routing diverging from the mainline route, this particular spur route is unique among them. On August 29, 1998, [Lake Michigan Carferry's S.S. Badger](#) which ferries automobiles, trucks and passengers between Manitowoc, Wisconsin and Ludington, Michigan was officially designated as a Lake Michigan Circle Tour spur route. The route traverses the following path:



- From the mainline Lake Michigan Circle Tour route at the western jct [US-10](#) & [US-31](#), the route heads westerly along [US-10](#) into downtown Ludington, turning southerly via [US-10/James St](#) to the *S.S. Badger* carferry docks.
- The route then traverses Lake Michigan itself via the [S.S. Badger](#) carferry.
- From the carferry dock in Manitowoc, Wisconsin, the Loop route, following US-10, heads southerly via Lakeview Dr, westerly via Madison St and then northerly along 8th St (with eastbound US-10/LMCT Loop using 10th St) into downtown Manitowoc.
- The LMCT Loop Route ends at jct US-10 & US-151 in downtown Manitowoc.

Former Lake Michigan Circle Tour - Loop Route (Scottville)

When MDOT completed a western bypass of Scottville, taking the high volume of [US-31](#) traffic out of town, a locally-designated LMCT Loop Route was signed, acting as a de-facto Business Routing for [US-31](#). **Note, however, this LMCT Loop route was removed some time in late 2004 or early 2005 and no longer exists.** The former route was 1.5 miles long:

- The LMCT Loop Route began at the jct of [US-10](#) & [US-31](#) on the west side of Scottville.
- The route continued easterly via [US-10](#) into downtown Scottville.
- In downtown Scottville, the loop route turned northerly and followed Old US-31 out of Scottville.



- The LMCT Loop Route ended at [US-31](#) north of Scottville.

Lake Michigan Circle Tour - Loop Route (Glen Haven)

While the Lake Michigan Circle Tour generally follows the closest posted state trunkline to its namesake body of water, the Sleeping Bear Dunes area is one exception. Instead of diverting the mainline LMCT off [M-22](#) for only eight miles, it continues via [M-22](#) through to Glen Arbor and on to Leland. However, as [M-109](#) loops off [M-22](#) to the west (lakeside) through the Sleeping Bear Dunes area, it has been designated as a LMCT Loop Route. The route is 6.8 miles long:



- The LMCT Loop Route begins at the southern jct of [M-22](#) & [M-109](#) just northeast of Empire and continues northerly toward Glen Haven.
- At Glen Haven, the loop route turns east and continues on [M-109](#) toward Glen Arbor.
- The LMCT Loop Route ends at the northern jct of [M-22](#) & [M-109](#) in Glen Arbor.

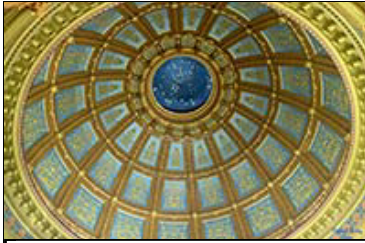
Back to: [Great Lakes Circle Tour page](#).

Additional Information

- [Great Lakes Circle Tour](#) - new website from the author of MichiganHighways.org.
- [Lake Michigan Circle Tour History](#) - from the [West Michigan Tourist Association](#) (WMTA). The WMTA helped to coordinate the first of the Great Lakes Circle Tours in the 1980s.
- [Great Lakes Circle Tour](#) - information from the [Great Lakes Commission](#). It was the GLC who originally established the Great Lakes Circle Tours and continues to provide information on many aspects of the Great Lakes region.
- [Lake Michigan Circle Tour](#) - from the Great Lakes Information Network (GLIN), which "is a partnership that provides one place online for people to find information relating to the binational Great Lakes-St. Lawrence region of North America." Please note that the "Circle Tour Road Route" description from the GLIN site is not only vague, but incorrect! (See description above.)
- [Shoreline Charms](#) (via [archive.org](#))- an article by Donna Marchetti about the Lake Michigan Circle Tour from the [Michigan Living](#) magazine published by AAA Michigan.

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Exhibit 13 to MDOT's MSJ



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247.951 Definitions.

Sec. 1.

As used in this act:

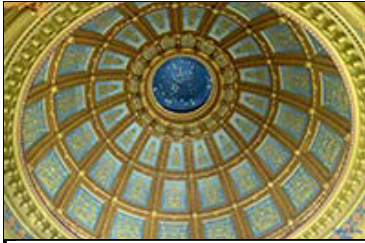
- (a) "Commission" means the state transportation commission.
- (b) "Department" means the state transportation department.
- (c) "Historic" means buildings, structures, interpreted sites, objects, or historic districts that are significant to the history, archaeology, architecture, engineering, or culture of this state.
- (d) "Pure Michigan byway" means a state highway that is designated in the manner provided in this act as a scenic, recreational, or historic route that is representative of Michigan's natural and cultural heritage.
- (e) "Recreational" means facilities normally associated with leisure-time activities, including, but not limited to, parks, public access sites, wildlife refuges, forest areas, marinas, swimming areas, hiking trails, and sightseeing areas.
- (f) "Scenic" means an area of outstanding natural beauty whose features include, but are not limited to, significant natural features such as vegetation, land form, water, and open areas with exceptional vistas and views, that singly or in combination make that area unique and distinct in character.
- (g) "State trunk line highway system" means the system described in section 1 of 1951 PA 51, MCL 247.651.

History: 1993, Act 69, Imd. Eff. June 22, 1993 ;-- Am. 2014, Act 445, Imd. Eff. Dec. 30, 2014

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247.952 Intent of the legislature.

Sec. 2.

It is the intent of the legislature to establish this state's responsibility for the enhancement and enjoyment of Michigan's scenic, recreational, and historic resources along its roadside by identifying and designating certain portions of the state trunk line highway system as Pure Michigan byways. It is further the intent of the legislature in designating Pure Michigan byways to assign responsibility for the development of the byways and for the establishment and application of specific planning and design criteria and procedures appropriate to the byways. The legislature further intends to provide criteria for the location and length of Pure Michigan byways and adjacent areas requiring continuing and careful coordination of planning, design, construction, maintenance, land use, and development, by state and local agencies as appropriate, to encourage adjacent land use consistent with the intent of the designation.

History: 1993, Act 69, Imd. Eff. June 22, 1993 ;-- Am. 2014, Act 445, Imd. Eff. Dec. 30, 2014

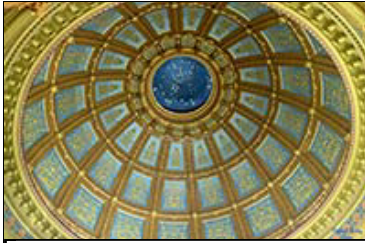
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247.953 Heritage routes; characteristics.

Sec. 3.

Certain portions of the state trunkline highway system are so uniquely endowed by natural aesthetic, ecological, environmental, and cultural amenities immediately adjacent to the roadside that their use by a larger percentage of the motoring public, particularly during the recreational season, is for the experience of traveling the road rather than as a route to a destination. Because of the immediate proximity of these features, roads may possess characteristics such as the following: pavement width of 16 to 20 feet, shoulders as narrow as 2 feet with trees immediately adjacent, curves that restrict maximum legal speeds, hills, steep side slopes, and narrow rights-of-way. The improvement philosophy for these roads is to maintain the essential elements of the road and the area immediately surrounding the road that create its unique character.

History: 1993, Act 69, Imd. Eff. June 22, 1993

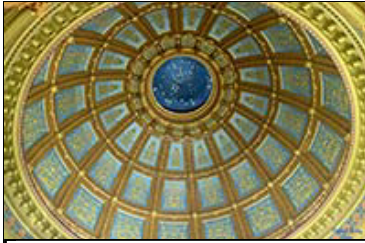
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247.957a Designation of routes as Pure Michigan byways.

Sec. 7a.

No later than 1 year after the date the amendatory act that added this section is enacted into law, the department shall designate as Pure Michigan byways all routes that are designated as Michigan heritage routes on the date the amendatory act that added this section is enacted into law, if the department obtains a trademark license from the Michigan economic development corporation for the use of the words "Pure Michigan".

History: Add. 2014, Act 445, Imd. Eff. Dec. 30, 2014

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Exhibit 14 to MDOT's MSJ

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STATE OF MICHIGAN



JOHN ENGLER, GOVERNOR

DEPARTMENT OF TRANSPORTATION

MURRAY D. VAN WAGONER (TRANSPORTATION) BUILDING
425 WEST OTTAWA STREET - PO BOX 30050, LANSING, MICHIGAN 48909
PHONE: 517-373-2090 FAX: 517-373-0167 WEB SITE: <http://www.mdot.state.mi.us>
GREGORY J. ROSINE, DIRECTOR

May 18, 2001

Ms. Joan Woods, Chairperson
M-22 Scenic Heritage Route Committee
1996 S. Manitou Trail
Leland, Michigan 49654

Dear Ms. Woods:

It is my pleasure to inform you that the M-22 Heritage Route application and nomination process has been successfully completed and that M-22 through Leelanau County, except in Bingham Township, is now designated as a Michigan Scenic Heritage Route.

Designation as a Michigan Scenic Heritage Route signifies that those living and working within the corridor have made a commitment to conserving, enhancing and promoting their area as a unique living and working community.

The M-22 corridor in Leelanau County contains a distinctive blend of scenic, cultural and natural features that make it a worthy addition to the Michigan Scenic Heritage Route system.

As a partner in the M-22 Scenic Heritage Route, I pledge my personal support, and assure you that the Michigan Department of Transportation will continue to endorse this worthwhile accomplishment.

If you have questions or comments, please do not hesitate to call me at (517) 335-2934.

Sincerely,

A handwritten signature in cursive script, appearing to read "Pete Hanses".

Pete Hanses
Heritage Route Manager



Exhibit 15 to MDOT's MSJ

10BEST: Trusted Travel & Lifestyle Advice



10Best Readers' Choice

Chosen by readers of USA TODAY and 10Best

[SAVE TO MY LISTS](#)



M-22

Michigan



Photo courtesy of Lindspetrol / Flickr

The M-22 route along Lake Michigan is one of America's most beautiful tours, and it gets even better in the fall. This 116-mile road brings visitors through the peaceful countryside and along the shore, past small businesses, wineries, galleries and, of course, countless colorful trees. Visitors can stop

ALL NOMINEES

[Best Scenic Autumn Drive](#)

[Blue Ridge Parkway North Carolina & Virginia](#)

[Dutch Country Roads Pennsylvania](#)

[Going-to-the-Sun Road Montana](#)

[Historic Columbia River Highway Oregon](#)

Save

and visit points of interest along the way and meet some locals, making this fall leaves trip a little bit wildlife and a little bit small town, all in one.

M-22 is currently ranked **#1 of 20**.

VOTE

Email: (optional)

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* You can cast one vote in each category every day

Historic Route 1

Maine

Hocking Hills Scenic

Byway

Ohio

Jacob's Ladder

Scenic Byway

Massachusetts

Kancamagus Scenic

Byway

New Hampshire

M-22

Michigan

Middlebury Gap

Road

Vermont

Mohawk Trail

Massachusetts

Olympic Peninsula

Loop Drive

Washington

Peter Norbeck

Scenic Byway

South Dakota

Locate

Share

Comments **Community** 1 **Login** ▾

Recommend

Sort by Best ▾

Join the discussion...



Johnny Pabami · a day ago

By far the best scenic route outside of Ireland.

△ | ▾ · Reply · Share ›

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A **C.J.Blanda** — Its a captivating city, I would buy there now, I see

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[New York](#)

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The Experts

Locate

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Anna Hider



Anna is a writer and social media manager for [Roadtrippers](#), the coolest trip-planning site and app on the planet, where she's spent two years digging up the coolest off-the-beaten-path things for travelers to see and do. She loves hiking, exploring, and sometimes even getting lost in a good state park, and is definitely a sucker for any place with a waterfall, a ghost town or a beach.

Larry Bleiberg



Larry Bleiberg, a veteran journalist with magazine, newspaper and web experience, has spent much of his career living in, and writing about, the South. The Virginia native is former travel editor of the Dallas Morning News and Coastal Living magazine and founder of [CivilRightsTravel.com](#). He served on a Pulitzer Prize team, is a seven-time Lowell Thomas Travel Journalism Award winner, and was honored for producing the best newspaper travel section in North America. Learn more at [LarryBleiberg.com](#) or [facebook.com/larry.bleiberg](#).

Lydia Schrandt



Lydia, photo editor and Readers' Choice Production Manager for USA TODAY 10Best, has traveled to more than 30 countries in Europe, Asia and North and South America, and has lived in Albuquerque, Galveston, Austin, Thailand, Korea, China, Ecuador, Colombia, Argentina, Brazil and now Spain. When she's not at her computer in a cafe, she's out photographing the city, writing fiction or cheering on Barça.

Locate

Share

Save

Exhibit 16 to MDOT's MSJ



ABOUT US

Company History

(http://m22online.com/2009/02/m-22-company-history/)

M-22 is not just a road; it is a way of life.

Founded by kiteboarders in search of epic wind and waves, M-22 was created to express a common passion for Northern Michigan. However, M-22 shares this passion beyond Michigan's borders. It is marked by the simplicity and appreciation for natural wonders such as bays, beaches and bonfires, dunes and vineyards, cottages, friends and family everywhere.

M-22 is the feeling you get when you realize there is no other place you would rather be.



[\(https://m22online.com/2009/02/m-22-company-history/jason-hamelin-m22/\)](https://m22online.com/2009/02/m-22-company-history/jason-hamelin-m22/) How it all Began...

Local kiteboarding icons Matt and Keegan Myers (also known as "The Broneah Brothers") fell in love with M-22, literally while traveling along M-22 countless times in pursuit of wind, waves, and perfect beaches for their beloved sport of kiteboarding. The M-22 image sparked something in the brothers that reminded them of natural beauty, good times, and positive energy! Loving the fact that something so simple can mean so much to many different people each in a different way.

SHOPPING CART

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[Visit the shop \(https://m22online.com/products-page/\)](https://m22online.com/products-page/)

THE STORE

Product Line

[Classic \(15\) \(https://m22online.com/products-page/classic/\)](https://m22online.com/products-page/classic/)

[Earth \(6\) \(https://m22online.com/products-page/earth/\)](https://m22online.com/products-page/earth/)

[LOVE \(6\) \(https://m22online.com/products-page/love/\)](https://m22online.com/products-page/love/)

[Street \(6\) \(https://m22online.com/products-page/street/\)](https://m22online.com/products-page/street/)

[Surf \(9\) \(https://m22online.com/products-page/surf/\)](https://m22online.com/products-page/surf/)

Category

[Accessories \(11\) \(https://m22online.com/products-page/accessories/\)](https://m22online.com/products-page/accessories/)

[Headwear \(10\) \(https://m22online.com/products-page/headwear/\)](https://m22online.com/products-page/headwear/)

[Jackets \(2\) \(https://m22online.com/products-page/jackets/\)](https://m22online.com/products-page/jackets/)

[Long-Sleeve \(4\) \(https://m22online.com/products-page/long-sleeve/\)](https://m22online.com/products-page/long-sleeve/)

[Sweatshirts \(12\) \(https://m22online.com/products-page/sweatshirts/\)](https://m22online.com/products-page/sweatshirts/)

[T-Shirts \(11\) \(https://m22online.com/products-page/t-shirts/\)](https://m22online.com/products-page/t-shirts/)

Department

[Ladies \(16\) \(https://m22online.com/products-page/ladies/\)](https://m22online.com/products-page/ladies/)

[Mens \(12\) \(https://m22online.com/products-page/mens/\)](https://m22online.com/products-page/mens/)

[Youth \(5\) \(https://m22online.com/products-page/youth/\)](https://m22online.com/products-page/youth/)

M-22 hoodies and stickers were made with the M-22 road sign as a logo for local kiteboarders and surfers to wear. In August 2006, Keegan wore an M-22 T-shirt on the cover of [Traverse Magazine \(http://mynorth.com\)](http://mynorth.com) when the brothers were featured for Broneah Kiteboarding. After the magazine was distributed, the phone rang off the hook for weeks. Quick to take things to the next level, the brothers went into production and worked with several Leelanau retailers. The retailers sold M-22 hoodies, T-shirts, and stickers. The product line has continued to expand as new apparel and accessories continue to be added. In November 2007, just in time for the holiday season, an M-22 company store opened in downtown Traverse City, and the distribution of M-22 wine and coffee has taken off. Keeping the brand focused on quality products, service, supporting local businesses and eco friendly opportunities will continue to help grow the brand.

Check out our sister company [Broneah Kiteboarding \(http://www.broneah.com\)](http://www.broneah.com).

Feb 22, 2009 | Categories: [About Us \(http://m22online.com/category/about-us/\)](http://m22online.com/category/about-us/) | Comments Off

THE STORE

[Request a Catalog \(http://m22online.com/request-a-catalog/\)](http://m22online.com/request-a-catalog/)

[Shop M-22 \(http://m22online.com/products/page/\)](http://m22online.com/products/page/)

[Privacy Policy \(http://m22online.com/products/page/privacy-policy/\)](http://m22online.com/products/page/privacy-policy/)

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THE COMPANY

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M - 22

M-22 is not just a road; it is a way of life.

Founded by kiteboarders in search of epic wind and waves, M-22 was created to express a common passion for Northern Michigan. However, M-22 shares this passion beyond Michigan's borders. It is marked by the simplicity and appreciation for natural wonders such as bays, beaches and bonfires, dunes and vineyards, cottages, friends and family everywhere.

M-22 is the feeling you get when you realize there is no other place you would rather be.

we donate a portion of every sale to [The Leelanau Conservancy \(http://www.theconservancy.com\)](http://www.theconservancy.com)



CONTACT

E: sales@m22online.com

P: 231-360-9090

W: [send us a message \(http://m22online.com/contact/\)](http://m22online.com/contact/)

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[\(\[javascript:if\(window.open\('http://www.trustlogo.com/v_querytype=W&v_shortcode=SC4&v_search=http://us/&x=6&y=5','tl wnd_credentials'+\(new Date\(\)\).getTime\(\),{toolbar=0,scrollbars=1,location=1,};tLIB\(tLTB\);](http://www.trustlogo.com)

Exhibit 17 to MDOT's MSJ

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THE M-22 LOOK

The Myers brothers capture the mood of Northern Michigan



Matt and Keegan Myers on Neahtawanta point on Old Mission Peninsula where they grew up. Photo by Jason Hamelin.

By: Kristy Kurjan

Fresh water, beaches, bonfires, and comfortable clothing. That is exactly what kiteboarding co-founders Matt and Keegan Myers had in mind for their M-22 clothing company based out of Traverse City. For the brothers, M-22 is a way to express appreciation for the region through comfortable fashion.

M-22 is not just a road; it is a way of life. The Myers brother's line of cotton apparel is a reflection of the simplicity and natural beauty that Northern Michigan gives its visitors.

"Loving the beaches and Northern Michigan summers, that is the feeling our clothing represents," says Keegan. "It is easy for people to relate to the road because of its cool location and most people already have an attachment to it- M-22 is a special place for people, good memories."

The company has a diverse customer base consisting of locals as well as out-of-towners. The brand also appeals to a wide age spectrum from 10-year-old boys to 80-year-old grandmas. And, with over 5,000 fans on facebook.com, the brand is growing in both size and popularity.

COMFORTABLE CLOTHING

M-22's philosophy is to keep their styles simple and comfortable. "When you get out of the water after a day at the beach you want to put on a comfortable sweatshirt," explains Keegan. "We have done a lot of research on comfy hoodies."

The line is best known for its classic logo t-shirt but offers much more, including baseball hats, visors, coats and backpacks. Their store on West Front in downtown Traverse City even carries a line of M-22 coffee beans. Clothing is offered in men's, women's, youth and toddler sizes. Pricing range from \$25 for a t-shirt to \$49 for a sweatshirt.

Keegan says the M-22 brand will always have the classic standard M-22 t-shirts to represent the area, but the brothers are looking towards other ways to expand their brand.

"Right now we are working on technically-enhanced garments such as spring/fall mid layer jackets, Keegan says. "When it first started it was all logo wear. Now that the brand is growing we are becoming more refined and water focused."

THE ROAD TO SUCCESS

How did this athletic duo decide to mix fashion, kiteboarding and a road? "We came up with the M-22 idea while kiteboarding," explains Keegan. "All of the best kiteboarding spots are off of M-22. We first made t-shirts for our buddies and it took off from there."

The brothers grew up in Traverse City and attended Michigan State University. Keegan earning his degree in marketing and Matt in landscape architecture. Matt is the designer



Moe Murillo, a manager at the M-22 store in downtown TC, doesn't have to look far for the product line's label. Downes photo.

while Keegan takes care of marketing, organizing and the running of the business.

The two also own a kiteboarding company named Broneah, "bro" stands for "brothers" and "Neah" is short for "Ne Ah Ta Wanta Road" located on Old Mission Peninsula. During their college years they traveled the world, pursuing waves in places like Bora Bora and Tahiti. In recent years, they established a winter kiteboarding camp in Puerto Rico and have pursued their passion for big waves on the coast of Argentina.

Closer to home, you're likely to find them on the Lake Michigan coast in the summer, where a blossoming kiteboarding scene can be found off locales such as Point Betsie or Otter Creek in Benzie County.

In 2003, the brothers began making t-shirts and stickers with the M-22 road sign for their kiteboarding friends. After being featured on the cover of Traverse the Magazine in 2006, they took their products to boutiques in Leelanau County and began producing t-shirts, hoodies and stickers en masse. After receiving encouraging feedback from both customers and retailers, they decided to open a storefront. They now have an official M-22 brand store on Front Street in Traverse City and are opening a second store this May in Glen Arbor. In addition, their online website ships orders throughout the country.

PROTECTING WATERS

The Myers brothers have a theory on the M-22 highway: "The highway is the nicest, most beautiful stretch of road along any fresh water in the world." With this idea in mind, they in-

corporated eco-friendly ideas into their business model. A percentage of all sales are donated to The Leelanau Conservancy, helping to protect the landscape. They try to keep their production local by using Northern Michigan companies for their printing and screening needs.

"Eco-friendly is huge for us; it is the basis of everything we believe," says Keegan who is always thinking of ways to save fresh water. "The big driving force for us as a brand is to protect fresh water. Our hope is to set a good example for other companies to start similar programs helping protect our waters."

Another way the M-22 team is reaching out to the community is through The M-22 Challenge. The multisport event, held in Glen Arbor, benefits The Leelanau Conservancy. June 11 marks the third year of the Challenge. Competitors will participate in a 17 mile bike ride, a 2 mile run/dune climb, and finish with a 2 mile open water paddle. Registration is closed, as the 550 spots were filled up in just over 6 hours.

For more information on the M-22 clothing brand check out www.M-22online.com or visit their store fronts in Traverse City and Glen Arbor (opening in May, 2011).

strictly BUSINESS

Exhibit 18 to MDOT's MSJ



Wall
Info
Photos (37)

3,722
people like this

Likes [See All](#)



Sleeping Bear Dunes National



Glen Arbor



Art's Tavern Glen Arbor



MyNorth.com the online home of



Fishtown Leland

Add to My Page's Favorites
Subscribe via SMS
Unlike
Create a Page
Report Page
Share

M22

Company · Traverse City, MI

Basic Information

Founded 2003
Location 121 East Front Street
Traverse City, MI, 49684

Company Overview M-22 is not just a road; it is a way of life.

Founded by kiteboarders in search of epic wind and waves, M-22 was created to express a common passion for Northern Michigan. However, M-22 shares this passion beyond Michigan's borders. It is marked by the simplicity and appreciation for natural wonders such as bays, beaches and bonfires, dunes and vineyards, cottages, friends and family everywhere.

M-22 is the feeling you get when you realize there is no other place you would rather be.

Description

The M22 road sign symbol is a protected REGISTERED Trademark with the United States Patent and Trademark Office, an agency of the United States Department of Commerce. For more info visit: <http://m22online.com/products-page/trademark/>

Email sales@m22online.com
Phone 231.360.9090
Website <http://www.m22online.com>

Likes and Interests

Likes Crystal River Outfitters, MyNorth.com the online home of Traverse, Northern Michigan's Magazine, Sleeping Bear Dunes National Lakeshore, Glen Arbor, Grand Traverse Regional Land Conservancy, Art's Tavern Glen Arbor, Fishtown Leland, FLOW for Water, Leelanau Conservancy

You and M22



8 friends like this.

[Leelanau Conservancy](#)

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People You May Know

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Rob Crider
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Search Leelanau County, Michigan homes for sale. Judy is a Leelanau County real estate expert. Homes, land, & waterfront !

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rackspacecloud.com



You manage your business and we'll manage your Cloud. Get OS/Apps support, 24x7 monitoring, expandable backups and more.

Ruby Professional?

binpress.com



Binpress is a discovery and distribution service for high-quality Ruby components. Now running a \$40k contest for best code package!

Exhibit 19 to MDOT's MSJ

Timeline Photos

[Back to Album](#) · [Detroit Lions's Photos](#) · [Detroit Lions's Page](#)

[Previous](#) · [Next](#)



Like Comment

ndamukong_suh

Detroit Lions
#Repost from @ndamukong_suh, who checked out Seal Team 2 facility in Germany! #GoLions!

Like · Comment · Share · 6 hours ago

9,281 people like this.

[Top Comments](#)

766 shares

Write a comment...



Nate Farran Great way to represent Michigan in many ways. M22. Thanks for your service.

Like · Reply · 23 · 6 hours ago · Edited

2 Replies · 4 hours ago

Chat (Off)



Darin Idyle Ryan Newberry you quite obviously never served. To make a comment like that, especially w regard to a SEAL, where death is always a reality, shows you don't think much before you speak. Work on that filter.

Like · Reply · 11 · 6 hours ago



Jorge Zuniga U.S.Navy S.E.A.Ls and Detroit Lions two of the BEST at what they do!!! supress and conquer!!!

Like · Reply · 4 · 4 hours ago · Edited



Se Basti An K Welcome suh to my home Country. I Watch every lions game! Suh you are one of my favorites. See u playing in London against the falcons. I can't wait until the 26th of October 2014!!! Best wishes from Berlin.

... See More

Like · Reply · 4 · 6 hours ago

Album: [Timeline Photos](#)

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Exhibit 20 to MDOT's MSJ



Lisa Lowery

M22002469

Hi Michigan! I just crossed the Alps and wore my M22 jersey!
Missing Michigan.



Like · Comment · Share · September 22, 2013 at 11:57am



M22 likes this.



Write a comment...



Exhibit 21 to MDOT's MSJ



Lauren Graves Kropf

M22002471

Repressing m22 at the Rock and Roll Half Marathon New Orleans. And yes I had someone stop me and tell me they had a house in Leeland.



Like · Comment · Share · 20 hours ago near New Orleans, LA

👍 12 people like this.

💬 View 1 more comment



Darlene Andres McDonald Good luck Lauren!

11 hours ago · Like



Lynn Sanburn Go Lauren go!!

46 minutes ago · Like



Write a comment...



Exhibit 22 to MDOT's MSJ

M22's Photos – Wall Photos

Photo 3 of 18 [Back to Album](#) · [M22's Photos](#) · [M22's Profile](#)

[Previous](#) [Next](#)



Where have you seen M22?

From the album:
[Wall Photos by M22](#)

Added December 18, 2010 · [Like](#) · [Comment](#)

47 people like this.



Matthew Brzezinski this picture is so awesome.....THANK YOU!!
December 18, 2010 at 10:54am · [Like](#)



Michele Bouchard I was behind a car in my bus that was driving to Maltby School to drop their student that had a sticker in the back window just like the one posted here, but it also said Lake Michigan underneath. I didn't know it referred to the military. I thought it was pretty cool.
December 18, 2010 at 11:07am · [Like](#)



Joy Bender Hadley Marquette, MI I have seen several bumper sticker and T-shirts.
December 18, 2010 at 11:16am · [Like](#) · [1 person](#)



Jennifer Scott Horner On my car in Clarksville, TN
December 18, 2010 at 11:16am · [Like](#)



Heather Kalchik I'm from the county and I've seen it here in Oregon!
December 18, 2010 at 11:18am · [Like](#) · [1 person](#)



Melissa Golden Martin I live in Hood River Oregon and sport one on my car!
December 18, 2010 at 11:32am · [Like](#)



Don Bandemer How cool ! I just wish he and all the rest of our men were back home to enjoy M22 and the holidays.
December 18, 2010 at 11:45am · [Like](#)



Megan Mette thats sweet !!!!!!!!!!!!!!!!!!!!!!!!!!!!!!! roll on brother
December 18, 2010 at 11:48am · [Like](#)



Michele Duff Aucello I thought I had the only one in Honolulu but friends report seeing another.
December 18, 2010 at 11:52am · [Like](#)



Rebecca Van Pelt Lived in Alaska, and I saw them every where!! Including on my car!
December 18, 2010 at 11:54am · [Like](#)



Cheryl Cigan LOL! Where haven't we seen it? That's where we need to spread the word and get the visuals out there! The Pennington Collection in Northport sells the entire line and Hansen Foods in Suttons Bay has many items in their Wineshop.

People You May Know [See All](#)



John Cook
Rob Rice is a mutual friend.
[Add as friend](#)

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Fly Fishing



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Presidential Straw Poll



Could Herman Cain be the next GOP presidential nominee? You decide! Cast your vote in the Townhall.com Presidential Straw poll today!

~~M22006494~~
December 20, 2010 at 12:04pm · Like



Kelly Fifarek We're representing in Nashville and have seen others ;).
December 18, 2010 at 12:22pm · Like



Cliff Stockman know of one rolling around Vidor,Tx
December 18, 2010 at 12:41pm · Like



Sarah Davis Kalamazoo Mi :)
December 18, 2010 at 12:42pm · Like



John Ferguson On a tee shirt at the health club!
December 18, 2010 at 1:15pm · Like



Chantal Lillette Thibert Grand Rapids:)
December 18, 2010 at 2:21pm · Like



Judith Morey A2
December 18, 2010 at 2:33pm · Like



Stacey Hasse on my van in Ashland, Virginia
December 18, 2010 at 2:41pm · Like



Cathleen Cardwell Elkington ...back of a sweatshirt in Sutttons Bay, MI
December 18, 2010 at 3:44pm · Like



MaryAnn Norton Short The Glenwood Market in Manistee!
December 18, 2010 at 5:13pm · Like



Rodney Boeve On the back of my Jeep, Prescott AZ
December 18, 2010 at 5:33pm · Like · 1 person



Nancy Kline Saw one on an SUV in St. Louis, MO.
December 18, 2010 at 5:46pm · Like



Mike Dailey I see M22 every night in my dreams, it's a lifestyle baby.
December 18, 2010 at 5:57pm · Like



Helen Switzer At a tire shop in St. Joseph MI after a blowout, another customer had the same sticker as me. We found out that we live 10 miles away from each other in Manistee County!
December 18, 2010 at 7:59pm · Like



Caroline Davy Williams On my Subie in Salt Lake City! M-22 lovers can be found everywhere. Saw one in the Snowbird Ski Resort parking lot on a car with Colorado plates.
December 18, 2010 at 8:00pm · Like



Michele Fulkerson On bumpers and t-shirts in Southern California, and of course on my hoodie that I wear almost everyday!
December 18, 2010 at 9:46pm · Like



Joshua Jacobs On my shirt, and my mother's jeep, and pretty much anywhere my family is. A girl at school in muskegon asked me what M22 was, after seeing it on my shirt. She said she's lived in Michigan all her life and didn't know what or where it was, crazy!
December 19, 2010 at 11:09pm · Like



Julie Frai My car, hoodie and coffee mug in Atlanta, GA
December 21, 2010 at 10:01am · Like



Vanessa Rogers-Bisard Where I grew up.....from Onekama to Sleeping Dunes....
December 23, 2010 at 10:45pm · Like



Benjamin Daniels i see them here in northville/novi all day long but i have also seen them own in Florida and south/north Carolina
January 1 at 9:22am · Like



Rob Daniels i saw a few in maui
January 1 at 9:57am · Like



Megan East Ocean City, Md.
January 1 at 10:13am · Like



Eric Clone Was approached by a family in Skinny Legs bar, Cruz Bay, St. John USVI who recognized my M-22 Challenge shirt.
January 2 at 6:20pm · Like



Jodie Jaspersen Pettinger Mount Vernon, IA
January 4 at 9:13pm · Like



Mike Plessner Texarkana, Texas back window of a Subaru Forester with Texas plates
January 5 at 10:40am · Like

M22000495



Dillon Olsen Park City, UT
January 17 at 3:51am · [Like](#)



Ann Phillipich Farhat Kauai!
January 29 at 9:07am · [Like](#)



Write a comment...



M22

Company · Traverse City, MI

Wall

Everyone · M22

Share: [Post](#) [Photo](#) [Link](#) [Video](#)

Write something...



M22

One week until the M22 Challenge registration opens! MERRELL Cherry Capital Cadillac Subaru Charter Business Right Brain Brewery



Wednesday at 3:05pm · Like · Comment · Share

22 people like this.



Mimi Ransick I so want to do this! Please let me in!
Wednesday at 10:55pm · Like

Write a comment...



Megan P Kelly

Saw an M22 sticker on a Subie out here in Denver, yahoo!
Yesterday at 1:32am · Like · Comment



PORTERHOUSE PRODUCTIONS – MICHIGAN

Registration for the 3rd Annual M22 Challenge begins March 1 at 8AM – there are limited spots available, so don't delay!

[RaceServices.com](http://www.raceservices.com)
register.raceservices.com

Wednesday at 9:16am · View Post



David Meador

My Love Michigan hoodie kept me warm while editing this in my basement!

Louie Vito, JJ Thomas, Simon Dumont – Otsego Club – US Snowboard Team
www.youtube.com

<http://on.fb.me/hVmmnL> – Share On Facebook – Think Feel Pictures – The Otsego Edit – Louie Vito, JJ Thomas, Matt Ladley, Steve Fisher, Zach

elly Marren, Kaitlyn Farrington visted The Otsego the Winter Dew Tour and Winter X Games 15.



Thursday at 8:11pm · Like · Comment · Share

M22 likes this.

Write a comment...



Tim Bojanowski

Spotted an M22 shirt at the Magic Kingdom today at Disney World in FL! Glad to see fellow supporters representing.

Wednesday at 1:24am via iPhone · Like · Comment

3 people like this.

Write a comment...

RECENT ACTIVITY

Wall
Info
Photos (41)

3,872
people like this

Likes [See All](#)

Leelanau County Michigan

Visit Up North Vacation Rentals

Pure Michigan

MERRELL

Traverse Today

Add to My Page's Favorites
Subscribe via SMS
Unlike
Create a Page
Report Page
Share

You and M22



12 friends like this.

Right Brain Brewery, Downtown TC (Official), Traverse Legal, PLC

Photos of Lauren



Our very own Lauren!
Lauren Flynn is tagged in this photo from May 2010.

Photo Memories from 2009



John and Brooke at the Beach Bums...
Brooke Benton Di Giacomo is tagged in this photo from August 2009.

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Fly Fishing



Like it?

Like · 22,782 people like this.

Lake Folk



"Dark, Bizarre, and Wonderful" twist on indie-folk and Roots Noir. Free downloads!

Like · 486 people like this.

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Like · Enrico Schaefer likes this.

Fishhound.com



Where was this fish caught? On what lure? At what time of day? Become a 'friend' of FISHHOUND.com and find out.

Like · 6,718 people like this.

"The third annual M22 Challenge..." on Fishtown Leland's Wall.



Traverse Today

The third annual M-22 Challenge registration opens on March 1, 2011. There are a limited number of spots available so please be prepared to register on March 1. For all of the event details check out <http://m22challenge.com/> or visit the M22 page!



M-22 Challenge
m22challenge.com

The M-22 Challenge : bike - run - paddle : Are you up to the Challenge?

Wednesday at 7:18am · View Post



Crystal River Outfitters

Don't forget when registering for the M22 Challenge on March 1, to also follow the link to complete your kayak rental for the race. The staff at Crystal River Outfitters will deliver your boat, paddle & lifejacket the day of the event!

16 hours ago · View Post



Patrick Galvin

i so M22'ed the Keweenaw bridge last night coming home from Mount Bohemia I blasted the horn the whole way across.

Thursday at 10:59pm · Like · Comment



Annie Lutes

M22 in Joshua Tree National Park!!! Sweet, sweet Southern Cali :)



February 19 at 3:31pm · Like · Comment

Summerfrost Photography likes this.

Write a comment...



Michigan Runner Girl

Who's up for joining me in this bike-run-paddle? Registration for the M22 Challenge starts March 1. Thinking this will be a perfect first tri AND awesome post-marathon adventure. <http://m22challenge.com/>



M-22 Challenge
m22challenge.com

The M-22 Challenge : bike - run - paddle : Are you up to the Challenge?

Wednesday at 1:04pm · View Post



Leelanau County Michigan

The third annual M22 Challenge registration opens on March 1, 2011. There are a limited number of spots available so please be prepared to register on March 1. For all of the event details check out www.m22challenge.com For updates on the event please join the M22 facebook page at: <http://www.facebook.com/pages/M22/126308250766680>



M-22 Challenge
www.m22challenge.com

The M-22 Challenge : bike - run - paddle : Are you up to the Challenge?

Wednesday at 9:11am · View Post

RECENT ACTIVITY

"The third annual M22 Challenge..." on Sleeping Bear Dunes National Lakeshore's Wall.



Leelanau Today

The third annual M-22 Challenge registration opens on March 1, 2011. There are a limited number of spots available so please be prepared to register on March 1. For all of the event details check out

register on March 1. For all of the event details check out <http://m22challenge.com/> or visit the [M22](#) page!
Wednesday at 7:17am · View Post



Shelly Boudreau Meyer

M22 sand art – fun afternoon at Christmas Cove



February 22 at 12:03pm · Like · Comment

Cindy Nyhoff likes this.



Jennifer Cooper

Kind of cool to walk in and find the snowboard superstar Danny Kass in the shop – M22 rocks the house!

February 18 at 6:41pm · Like · Comment



Lit Image

M22 getting some representation at EpicHappens Downtown Throwdown this weekend at Traverse City's Winter Wow!Fest.



February 22 at 12:45pm · Like · Comment



Jayme Sue

Crazy to walk down the street of Flagstaff AZ to see someone wearing a M22 shirt and got it as a gift from his parents. Made my day brighter to see a piece of home:)

February 18 at 10:48pm via iPhone · Like · Comment

5 people like this.



Annie Lutes I wear my M22 sweatshirt around Flag all the time! Maybe you and I will run into each other! :o)

February 19 at 5:51pm · Like



Danni Wysocki

i saw the sign up for the m22 challenge is March 1, when is the actually race?

February 19 at 7:16pm · Like · Comment

Lauren Wysocki likes this.



M22 June 11, 2011 – 8AM
Thursday at 5:50pm · Like

RECENT ACTIVITY

M22 edited their [Founded](#), [Phone](#) and [Website](#).



M22

Congratulations to M22 ambassador Uncle-Corb Redli for his 3rd place finish at EpicHappens rail jam!





February 22 at 8:44pm · Like · Comment · Share

17 people like this.



M22

Can you help us write a caption for this Jason Hamelin photo shot off of M22?



February 22 at 9:13am · Like · Comment · Share

16 people like this.

[View all 36 comments](#)



Crystal River Outfitters

1 week from tomorrow marks the opening of registration for the 2011 M22 Challenge! Wake up early on March 1 to register & reserve your kayak from [Crystal River Outfitters!](#)

February 21 at 11:27am · [View Post](#)



M22

One the best snowboarders of all time, Danny Kass, stopped into the M22 store downtown Traverse City today!



February 18 at 9:11pm · Unlike · Comment · Share

You and 65 others like this.

[View all 5 comments](#)



M22 <http://epichappens.com/> have done a great job with the Rail Jam in Traverse City!

February 19 at 6:13pm · Like



Brian Rusniak Yah! I was there when he walked in! :)

February 22 at 6:04pm · Like



M22

Video from our friends Leelanau Conservancy showing why M22 is just as good in the winter!



Why Leelanau? Winter Beauty!
www.youtube.com

People who live in or visit Leelanau County MI share their thoughts and pictures in answer to the question, "Why Leelanau?" on a blog hosted by the Leelanau Conservancy. In this short photo slide show of submissions to this blog, the answer to the question is ... "because it's beautiful even in wint

February 14 at 5:16pm · Like · Comment · Share

34 people like this.

 View all 4 comments



Lucy Williams Maish Wonderful
February 14 at 9:36pm · Like



Steven O'Connor **i will be back up north in 4 days.....i can't wait!!!**
February 15 at 3:38pm · Like

Write a comment...



M22

Yesterday Bill Murray won the AT&T Pebble Beach National Pro-Am golf tournament; his caddy was wearing an M22 hat!



February 14 at 5:21am · Like · Comment · Share

149 people like this.

 View all 11 comments



Willem Biederman Here it is:
<http://graphics8.nytimes.com/images/2011/02/14/sports/YGOLF/YGOLF-popup.jpg>
February 14 at 6:16pm · Like



Jill Crowley Behrendt woohoo!
February 14 at 6:35pm · Like

Write a comment...



Heather Fredericks

Watching the final round of the Pro-Am at Pebble Beach... not only is Bill Murray making the midwest proud, but his caddy is sporting a M22 baseball cap!

February 13 at 6:21pm · Like · Comment

2 people like this.



Will Harper The 9&10 sports guy is going to mention it on the 11 o'clock broadcast.
February 13 at 9:37pm · Like

Write a comment...



Will Harper

Bill Murray with caddie.



February 13 at 5:59pm · Like · Comment

M22 likes this.



Will Harper Photo courtesy of Jack Lane (and CBS).
February 13 at 6:02pm · Like

Write a comment...



Keenan Ke

I saw an M22 sticker today in Belleview, Fl. It was the highlight of my day and I cannot wait to be back there in July!

February 13 at 7:53pm · Like · Comment

M22 likes this.



M22

2011 M22 Challenge registration opens in less than 20 days! Only 400 spots for 2011. Are you coming?

<http://m22challenge.com/2011-registration/>



February 10 at 8:38am · Like · Comment · Share

23 people like this.

[View all 7 comments](#)



Mary Donlin I am having trouble finding details about this race?

February 10 at 6:27pm · Like



Ben Trombly Count me in!! The Parking Lot Director has spoken.

February 22 at 11:02am · Like



Traverse Today

Yesterday Bill Murray won the AT&T Pebble Beach National Pro-Am golf tournament; his caddy was wearing an M22 hat!



<http://graphics8.nytimes.com/images/2011/02/14/sports/YGOLF/YGOLF-popup.jpg>
graphics8.nytimes.com

February 14 at 6:05pm · View Post



Josh Lester

Could not pass up taking this picture.



February 16 at 7:27pm · Like · Comment



Sue Gizinski Katona

A Fall Color Tour on M22



February 8 at 8:52pm · Like · Comment



Rod Ranger there it is!

February 8 at 9:14pm · Like



M22

"Like" the company that started M22! Broneah



February 9 at 8:17am · Like · Comment · Share

64 people like this.



Megan Mette thats me this summer !
February 9 at 8:47am · Like



M22 <http://broneah.com/category/great-lakes/michigan-summer-camp/>
February 9 at 8:54am · Like



Patricia Dennis I still have a business card :)
February 9 at 11:48am · Like

Write a comment...



Robert T Head
Where can I get on of those stickers?
February 10 at 9:18pm · Like · Comment



Danielle Russell
Pierport near Arcadia



February 10 at 3:52pm · Like · Comment



Justin Perry
scope the bass drum, m22 love all the way!!
February 8 at 9:24am · Like · Comment



Bonnie Beraza
L ♥ V E my new hoodiel!



February 4 at 12:55pm · Like · Comment

Janelle Renee Rinehart likes this.



Monica Rose Schneider I have that one too
February 11 at 11:36pm · Like · 1 person



Joan Ziegler Seibenick Where can I buy this?
February 13 at 8:23pm · Like



Bonnie Beraza if you live in/around TC, at the M22 store, downtown, or buy off their website, m22online.com
February 13 at 9:35pm · Like

Write a comment...



Will Harper
National TV -- Pro-Am golf tournament, Bill Murray's caddie is wearing an M-22 hat. Lots of air time!
February 13 at 5:51pm · Like · Comment

Cheryl Parker likes this.



Will Harper Anyone know who it is?
February 13 at 5:52pm · Like · 1 person

Write a comment...

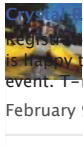


Leelanau Today
Yesterday Bill Murray won the AT&T Pebble Beach National Pro-Am golf tournament; his caddy was wearing an M22 hat!



<http://graphics8.nytimes.com/images/2011/02/14/sports/YGOLF/YGOLF-popup.jpg>
graphics8.nytimes.com

February 14 at 7:59am · View Post



Crystal River Outfitters

Registration for the 2011 M22 Challenge opens up March 1! Crystal River Outfitters is happy to once again be the Paddle Directors and provide kayak rentals for the event. 1 - minus 4 months & 2 days! Start your training!

February 9 at 8:34am · View Post



Mallory Golden

My sister and her M-22 in Barbados!



February 7 at 6:43pm · Like · Comment



M22

Does it get any better, anywhere? M22 SBP.



February 3 at 11:27am · Like · Comment · Share

133 people like this.

[View all 37 comments](#)



Sue Gizinski Katona



February 8 at 8:51pm · Like · Comment

2 people like this.



Rod Ranger nice shot, I love the background barn. got any of that one? near Townline Rd right?

February 8 at 9:14pm · Like



Danielle Russell

Sleeping Bear Dunes



February 10 at 3:45pm · Like · Comment



Sue Gizinski Katona



February 8 at 8:49pm · Like · Comment

Cindy Nyhoff likes this.

Sue Gizinski Katona

Even on a grey day, its breathtaking.



February 8 at 8:48pm · Like · Comment

Cindy Nyhoff likes this.



Crystal River Outfitters

We are excited to announce our new store "M22 @ Crystal River Outfitters" coming Summer 2011 in Downtown Glen Arbor! This store will offer all the best of M22 merchandise and allow us to further promote Crystal River Outfitters mission of recreating outdoors in Northern Michigan! More information coming soon!

February 3 at 4:41pm · View Post



Sue Gizinski Katona
just north of Glen Arbor



February 8 at 8:45pm · Like · Comment



Sue Gizinski Katona



February 8 at 8:44pm · Like · Comment



Sue Gizinski Katona
Nothing like a Fall Color Tour on M22



February 8 at 8:43pm · Like · Comment



M22
"Like" our friends PORTERHOUSE PRODUCTIONS – MICHIGAN! Get all your TC Microbrew & Music Festival updates here, as well as the inside scoop on great concerts and entertainment in Northern Michigan.

January 28 at 10:00am · Like · Comment

11 people like this.



M22
The August 2006 cover story in MyNorth.com the online home of Traverse, Northern Michigan's Magazine on Broneah Kiteboarding that unexpectedly helped start the M22 brand!



January 28 at 7:36am · Like · Comment · Share

41 people like this.

[View all 4 comments](#)



Heather Kalchik Where are these kids from? Are they Michiganders?

January 29 at 11:45am · Like



Pablo Magni Los top model de ville lago gutierrez

February 2 at 7:30am · Like



M22

3000+ Facebook members, thanks for the support!



January 27 at 10:32am · Like · Comment · Share

Liza Fillmore and 73 others like this.



Cindy Engdahl M22 – most beautiful views any where!

January 27 at 3:55pm · Like · 2 people



Irl Haswell family farm ... Benzie County Aral Road

January 27 at 7:48pm · Like · 1 person



Liz Tezak

Sibling love in Flagstaff, Arizona. ♥



February 2 at 11:21pm · Like · Comment



Robert T Head

How can I get the sticker for my car?

February 1 at 12:42pm · Like · Comment



PORTERHOUSE PRODUCTIONS – MICHIGAN

If you haven't yet "Like'd our friends' page over at M22, do so now! The M22 Page is where all postings and updates about M22 will be made. M22 is not just a road, it is a way of life. Founded by kiteboarders in search of epic wind and waves, M22 was created to express a common passion for Northern Michigan.



M22

M-22 is not just a road; it is a way of life. Founded by kiteboarders in search of epic wind and waves, M-22 was created to express a common passion for Northern Michigan. However, M-22 shares this passion beyond Michigan's borders. It is marked by the simplicity and appreciation for natural wonders such as bays, beaches and bonfires, dunes and vineyards, cottages, friends and family everywhere. M-22 is the feeling you get when you realize there is no other place you would rather be.

Page: 3,872 people like this.

January 28 at 9:33am · View Post



Christie Luedders Overgaard

There's no place like home.



January 27 at 6:58pm · Like · Comment

3 people like this.



James M Olson

Ima fan

January 28 at 10:26am · Like · Comment

M22 likes this.



Megan P Kelly

Oh how I miss the sites from M22! One of my favorite drives in the whole world!

January 27 at 10:47am · Like · Comment



Jennifer Martin Parker



January 27 at 9:57pm · Like · Comment

Bob Simmerman likes this.

[View all 4 comments](#)



Carol Wilkerson Steward Luv it. can't wait to come up.

January 28 at 3:04pm · Like



Rod Ranger awesome makeover of that place! it was rough pre M-22.

February 8 at 9:17pm · Like



M22

Mt. Tronador Patagonia, Argentina



January 25 at 6:37pm · Like · Comment · Share

69 people like this.

[View all 6 comments](#)



Jill Crowley Behrendt now, that's funny! xo

January 25 at 9:32pm · Like



Jenny L. Powell Right on!

January 27 at 8:51am · Like



Rosalyn Russell

Anyone know where to get one of those square M22 car stickers?

January 27 at 3:52pm via Android · Like · Comment



Joe Lenzo <https://m22online.com/products-page/accessories/m-22-sticker-pack/>

January 27 at 4:28pm · Like



Rosalyn Russell Thanks!

January 27 at 10:27pm · Like

Write a comment...



Amy Murphy

you guys should make an album of m22 stickers and things that people find all over the world

January 29 at 3:39pm · Like · Comment

Becky Lyddon likes this.

Write a comment...



Julie Heile Youmans

Snows finally came to our Missouri hideout. Love M-22 snow memories. Love Traverse magazine quote something like -- PEOPLE WHO LOVE WINTER ARE MORE FUN ! ! Yes.

January 28 at 8:46pm · Like · Comment

Ann Marie Gamble likes this.

Write a comment...



David Westerfield

A painting I did of one of my favorite places. Now available as a print.



January 27 at 1:32pm · Like · Comment

2 people like this.

Write a comment...



Jenny L. Powell

I see more M-22 stickers in Cincinnati than when I lived Up North (Glen Arbor/Maple City/Empire)! Love it and miss M-22...looking forward to M-22 this spring/summer/fall!!

January 27 at 8:59am · Like · Comment

Mimi Ransick likes this.



Mimi Ransick You are right there are a lot of M22 decals here in Cincinnati. We were in Glen Arbor after New Years and when we got back to Cincy the first thing we saw was an M22 stricker on a car...just a block from our home.....a good, comforting sight after the 8 hour drive.

January 27 at 11:44am · Like · 1 person

Write a comment...



Zach Hansel

Its Official!!!! 45th parallel pride gone world wide!!!!

January 18 at 11:54pm · Like · Comment

Keegan Myers likes this.

Write a comment...



Mimi Ransick

Trey chillin' in some Cincinnati snow



January 25 at 8:07am · Like · Comment



Beth Hook

My husbands tattoo



January 23 at 10:10pm · Like · Comment

Keegan Myers likes this.



Nate Griswold wow that is dedication
January 27 at 12:46pm · Like



M22
M22 fans from Lokalani just put up the M22 flag in Bariloche, Patagonia Argentina!



January 18 at 4:38pm · Like · Comment · Share

95 people like this.



M22 es un flash!
January 18 at 4:39pm · Like



Karin Skinner Andrews Bariloche is a great town! Very fitting to have a M22 flag there!
January 18 at 8:10pm · Like · 1 person



Kathy Brigham-Baird Soem beautiful scenes on M-22.
Kathy
January 18 at 10:18pm · Like



Jarrodd Case
just came back from a ski trip to homestead and stayed in Northport...fell in love with M22 and the beautiful area!!
January 19 at 9:10am · Like · Comment



Lokalani
M22 Lokalani Escuela De Kiteboard Broneah Kite Argentina



January 18 at 9:35am · View Post



Network Traverse City, Michigan
Video for Leelanau Conservancy posted on M22 shared here.. please visit and like both pages.



Dec 14, 2010 4:23pm
From our first day in business M22 has donated a percentage of all sales to the Leelanau Conservancy. This means that for every product sold a portion of the proceeds is given away - not based on profit but on gross sales. So even if our

company made no profit in a year we are still committed to our donation. We arranged our charitable contribution this way to express the companies devotion to preserving our natural environment - not just some off-the-cusp marketing scheme but a true initiative.
www.theconservancy.com
Length: 5:00

January 16 at 6:48pm · View Post



Jon Ellsworth King



January 16 at 2:59pm · Like · Comment



Tommy King M22!

January 16 at 3:01pm · Like

Write a comment...



Mimi Ransick

Snow lover, Trey Butler (Ransick), Cincinnati/Glen Arbor



January 25 at 8:05am · Like · Comment



Jon Ellsworth King

Working around Decatur Illinois....



January 16 at 2:57pm · Like · Comment

Bob Simmerman likes this.

Write a comment...



M22



M22 IMAGES

67 new photos

January 10 at 11:35am · Like · Comment · Share

55 people like this.

View all 12 comments



Eric Kincaid Fantastic.

January 11 at 11:54am · Like



Jennifer Roehl Satchwell amazing pictures!!

January 16 at 6:52pm · Like

Write a comment...

One more. September 2007, Topeko.



January 10 at 12:41pm · Like · Comment



M22
2011 M22 Challenge registration opens March 1, 2011 at www.m22challenge.com only 400 spots!



January 10 at 11:21am · Like · Comment · Share

14 people like this.



Annie Lutes Are we able to volunteer to help out? I was planning on coming back to MI this summer and would be more than thrilled to time it with this to help out on the sidelines.

January 10 at 1:18pm · Like



Ben Romine so really how rough is the race?

January 31 at 1:11pm · Like

Write a comment...



Nancy Schaefer
broschaefer :)



January 10 at 12:38pm · Like · Comment



M22
Great combination, sent from the streets of Italy!



January 8 at 8:59am · Like · Comment · Share

Cathy Kitchen Dittrich and 74 others like this.

View all 6 comments



Andrea Rossato Anderson now you need a Short's t

January 8 at 3:08pm · Like



Megan P Kelly You should tag Art's Tavern in this, they have a FB fan page now too.

February 15 at 7:10pm · Like

Write a comment...



Mary Meilinger DeWitt
<http://t.co/jUEJL65> via @youtube We are a company on M-22! At the Narrows



Glen Lake Views at Glen Lake Highlands_0001.wmv
t.co

Fabulous views of Glen Lake, Lake Michigan, S Manitou, and Sleeping Bear Dunes on a Estate size parcel of 60A for the ultimate in privacy, recreation, and be...

January 11 at 5:22pm · Like · Comment · Share

John Patrick Pate

On a pick up truck in Fort Lauderdale.



January 10 at 1:46pm · Like · Comment

Sue Gizinski Katona likes this.

Write a comment...



M22

Downtown TC, four M22 stickers on one car!



January 6 at 4:17pm · Like · Comment · Share

24 people like this.

[View all 8 comments](#)



Ken Willis No one should be able to put those stickers, which stand for something so wonderful, and American, on a foreign car!

January 7 at 1:18am · Like · 2 people



Tim Bosma that car was built in Indiana.

January 11 at 9:54am · Like

Write a comment...



Monica Rose Schneider

if you look close, My dad is wearing an M22 hat, he loves you guys too



January 7 at 11:01pm · Like · Comment



Lori Grossnickle

Love M-22 logo clothes!!!!

January 8 at 7:47pm · Like · Comment



Sharon Roney

Someone recognized my husband's M22 shirt in Budapest Hungary!

January 5 at 8:41am · Like · Comment

Keegan Myers likes this.



M22 WOW.

January 5 at 12:35pm · Like

Write a comment...



M22

A flier from the opening of M22 on September 9, 1949



January 5 at 7:48am · Like · Comment · Share

64 people like this.

[View all 11 comments](#)



Don Hamparian The Michigan highways web site (the best history of Michigan highways) says 'In late-1939 , M-22 is realigned between Crain Hill Rd north of Greilickville and downtown Suttons Bay to follow the western shore of the West Arm of Grand Traverse...

[See More](#)
January 5 at 9:58pm · [Like](#)



Caryn Charter Thanks! That is an interesting bit of history. I never knew Center road was a michigan highway.
January 6 at 8:55am · [Like](#)

Write a comment...



Ryan Mathews
I have an M22 sticker on the back of my Yamaha Zuma 125 scooter. It's in storage right now, but I'll get a picture up when I can.
January 10 at 9:45pm · [Like](#) · [Comment](#)



Elaine Fabinski
Spotted three M-22 stickers in a driveway in Denver, Colorado.
January 7 at 7:11pm · [Like](#) · [Comment](#)

Mimi Ransick likes this.



Mimi Ransick Maybe it is the family the runs the Narrows Marina?
January 7 at 9:36pm · [Like](#)

Write a comment...



Network Traverse City, Michigan
Welcomes M22 not the highway.. the company lol



M22
M-22 is not just a road; it is a way of life. Founded by kiteboarders in search of epic wind and waves, M-22 was created to express a common passion for Northern Michigan. However, M-22 shares this passion beyond Michigan's borders. It is marked by the simplicity and appreciation for natural wonders such as bays, beaches and bonfires, dunes and vineyards, cottages, friends and family everywhere. M-22 is the feeling you get when you realize there is no other place you would rather be.
Page: 3,872 people like this.

January 8 at 4:49pm · [View Post](#)



Mimi Ransick
[Kayaking on Big Glen](#)



January 7 at 9:49am · [Like](#) · [Comment](#)

2 people like this.

Write a comment...



A Barnard Toftness
Wow, with \$10 shipping, guess you're not interested in selling those stickers to your friends outside Traverse!
January 6 at 9:38pm · [Like](#) · [Comment](#)



M22
[What do you look forward to doing on M22 in 2011?](#)



January 1 at 8:23am · [Like](#) · [Comment](#) · [Share](#)

9 people like this.

 [View all 41 comments](#)

Write a comment...



Benjamin Daniels

last winter i went to Home Depot to buy a hatchet. in the parking lot i found a black suburban w/ a M22 sticker just like mine, so i parked next to it. when i got out, the back passenger side of my car had been hit...by the M22 suburban. the man didn't leave a note or anything BUT the Police found him and he paid. i was rather disappointed in the fellow M22'er =(
January 1 at 9:20am · Like · Comment



M22

Happy Holidays from M22, thanks for all of the support in 2010!



December 25, 2010 at 9:28am · Like · Comment · Share

[Cathy Kitchen Dittrich](#), [Nancy Schaefer](#) and 60 others like this.

 [View all 10 comments](#)



Cherrie Madison Lawton we like it
December 26, 2010 at 4:20pm · Like



Amy Murphy is this on the Frankfort breakwater?
January 5 at 10:13am · Like · 1 person

Write a comment...



Katie N Brent Cope

How about going thru your photos and telling us where the pictures were taken....please.

December 21, 2010 at 8:30am · Like · Comment

RECENT ACTIVITY

"That is so cool! THANKS!" on [Monica Rose Schneider's photo](#).



M22

Where is your favorite place for an M22 sunset?



December 21, 2010 at 7:46am · Like · Comment · Share

31 people like this.

 [View all 72 comments](#)

Write a comment...



Kelly DePuy Bolin

It's a great trip down memory lane. Glen Arbor to Frankfort. Beautiful!!!!

December 17, 2010 at 7:44am · Like · Comment

[Ted Hoff](#) likes this.

Write a comment...



Hope Monroe

M22

Yes, it's the way home....friends, family, etc.

December 16, 2010 at 9:58pm · Like · Comment

[Janine Winkler](#) likes this.

[Janine Winkler](#) Are you driving it soon?

December 16, 2010 at 10:57pm · Like

Write a comment...



Matt Roush

First time I was on M22 was between TC and Suttons Bay in the summer of 1980 on my way to camp at Northport State Park. Only other place with water that color and a shoreline that pretty is US1 in the Florida Keys. Liked it so much I started pestering the Leelanau Enterprise for a job until they hired me in 1981...

December 16, 2010 at 11:31pm · Like · Comment

Keegan Myers likes this.

Write a comment...



M22

Where have you seen M22?



December 18, 2010 at 10:51am · Like · Comment · Share

48 people like this.

[View all 37 comments](#)

Write a comment...



M22

Lets hear it, what M22 products do people want to see in 2011?

December 16, 2010 at 8:50am · Like · Comment

7 people like this.

[View all 46 comments](#)

Write a comment...

RECENT ACTIVITY

M22 changed their [Description](#).



M22

From our first day in business M22 has donated a percentage of all sales to the Leelanau Conservancy. This means that for every product sold a portion of the proceeds is given away – not based on profit but on gross sales. So even if our company made no profit in a year we are still committed to our donation. We arranged our charitable contribution this way to express the companies devotion to preserving our natural environment – not just some off-the-cusp marketing scheme but a true initiative. www.theconservancy.com



Dec 14, 2010 4:23pm

Length: 5:00

December 14, 2010 at 4:23pm · Like · Comment · Share

28 people like this.

[View all 7 comments](#)



Anne Bishop Shoup As the Director of Charitable Giving for the Leelanau Conservancy, I can confirm that M22 has been generous to our work. They're doing what they say they are doing!

December 22, 2010 at 10:16am · Like



John Alguire Keegan, Matt – thanks for the link to your giving policy!

December 24, 2010 at 11:29am · Like · 1 person

Write a comment...

M22

FREE shipping on all orders over \$20 until Christmas!



December 14, 2010 at 8:13am · Like · Comment · Share

2 people like this.



JoDee Randall woohoo – will you ship mine to my door?
December 14, 2010 at 7:55pm · Like



Tracie West you shouls make it thru january, so when people take back their other gifts they will order what they really want from you... merry christmas.. the season goes on...
December 24, 2010 at 2:00am · Like



M22
For a FREE copy of the 2010/2011 M22 catalog please email your mailing address to sales@m22online.com



December 13, 2010 at 8:30pm · Like · Comment · Share

2 people like this.



Kathy Brigham-Baird
Beautiful Drive into Suttons Bay and Lelend. Kathy
December 15, 2010 at 2:07pm · Like · Comment



M22
Are you ready for the 2011 M22 Challenge?



Dec 13, 2010 7:24pm
Length: 3:23

December 13, 2010 at 7:24pm · Like · Comment · Share

5 people like this.



Nicole Bloom absolutly love the dune climb!
December 14, 2010 at 4:08pm · Like



Jess Farran you should avoid planning this graduation, please(:
December 18, 2010 at 6:08pm · Like



M22
Thanks for joining the M22 fan page!
December 13, 2010 at 7:22pm · Like · Comment

3 people like this.



Seth Farran your welcome
December 14, 2010 at 8:25pm · Like

RECENT ACTIVITY

M22 joined Facebook.



Wendy Pratley
Something Fun!
December 15, 2010 at 9:03pm · Like · Comment

Martha Marti Johnson likes this.

There's a little M22 sticker on an orange VW in California

December 14, 2010 at 12:46pm · Like · Comment



Keegan Myers and Amy Murphy like this.



M22 Misses you and your family!

December 14, 2010 at 1:09pm · Like

Write a comment...



Betsy Baye

I love to ride my Harley up and down M-22 during the spring, summer and fall seasons. The beauty and joy fills my heart and soul, every time!

December 15, 2010 at 5:54pm · Like · Comment

Keegan Myers likes this.

Write a comment...



Deward R. Knapp

Keegan, be sure that people are adding this page as a favorite on their facebook page(s) as well. M22 is now on Contractorsyoucantrust.com as well as being notified to my personal connections. As I sit in my office at Harbor West... enjoying the 'Wintny side' of the M22 Lifestyle...

December 14, 2010 at 4:08pm · Like · Comment

Keegan Myers likes this.

Write a comment...



CaptainArt Walker Art Talker

I really dig M-21, the Bluewater Highway. It's like your brother road.

December 14, 2010 at 10:48am · Like · Comment

Jenn Ryan likes this.

Write a comment...



Cherrie Madison Lawton

love this site!

December 14, 2010 at 10:17am · Like · Comment

Jenn Ryan likes this.

Write a comment...



Theresa Rushton-Herrera

M22 Images ~ best photo album EVER. ♥

December 14, 2010 at 8:46pm · Like · Comment



Rita Wiseheart

I love M22 so beautiful was there this summer, if you have never been you should go~~~

December 14, 2010 at 2:52pm · Like · Comment

RECENT ACTIVITY

M22 edited their [Founded](#), [Location](#) and [Website](#).

There are no more posts to show.

EXHIBIT 23 TO MDOT's MSJ



Pure Michigan Blog

Michigan's Official Travel and Tourism Blog



See What's Happening Around the State in Our Monthly Events Roundup

3 Scenic Pure Michigan Hiking Trails Near M-22

Posted on October 28, 2013 by Pure Michigan

Today, guest blogger Scott Christ describes his experience hiking along three scenic trails near M-22. For more information on hiking trails in Michigan, visit michigan.org.

Close your eyes and imagine an idyllic place filled with vibrant, turquoise-hued lakes ... powdered sand beaches surrounded by towering dunes ... and pine-scented, old-growth forests.

For some people, Michigan may not be the first place to come to mind that fits this description. Yet that's exactly what I experienced during a summer trip to the **Leelanau Peninsula** in northern Michigan.

Scoping Out the Hiking Trails Along M-22 Near Leland and Glen Arbor



Our destination for this trip: Lake Leelanau. Our goal: plan as many "Michigan-themed" activities as possible. I had driven up M-22 before, but after spending a week trekking up and down this infamous road, I was absolutely blown away by its winding roads, spectacular views, and overall magnificence.

Before leaving for our trip, I did my homework and found three hiking trails close to M-22 between **Leland and Glen Arbor**:

1. Houdek Dunes Natural Area
2. Whaleback Natural Area
3. Pierce Stocking Scenic Drive

Here's what each had to offer.

Experiencing the Trails

Whaleback Natural Area

Whaleback Natural Area is a 10,000-year-old playground of preserved dunes and forests. It's within walking distance of downtown Leland and directly accessible from M-22. Plan on 1 to 1.5 hours if you're walking the trail. There are a couple fairly intense climbs involved too, so I'd classify this one as "Moderately Difficult."



Make sure you stop at the spectacular Lookout Point, which offers majestic views of Lake Michigan.

Houdek Dunes Natural Area

Quick disclaimer about Houdek Dunes: it's not easy to find. A Google Maps search took us to downtown Leland and we quickly realized we were in the wrong spot. So we headed up M-22 just north of Lake Leelanau, and found it marked by a tiny sign on the left side of the road.



The troubles getting there turned out to be worth it though. Houdek Dunes was formed from glacial sediments about 4,000 years ago, and you'll experience the amazing aftermath of geology and time with its combination of dunes and wooded forests.



Depending on which way you trek through the trail system, you'll see plenty of hundred-year-old birch trees, mature pines, sun-kissed stretches of dense green ferns, and the beautiful Houdek Creek, a spring-fed trout stream that flows into North Lake Leelanau.

The trail features 3/4 and 1- 1/2 mile loops. Plan on a couple hours to get through it if you're walking, but you can definitely do it in less. I'd classify the difficulty level as "moderate."

Pierce Stocking Scenic Drive

The Pierce Stocking Scenic Drive turned out to be one of the coolest parts of our trip. Located in the **Sleeping Bear Dunes National Lakeshore**, it's a 7-mile drive that offers a variety of stops and lookout points.

along M-22 then take a quick detour up "Dune Highway" 109.

About halfway through the drive, you'll reach the Lake Michigan Dune Overlook Platform stop. Park your car and walk the trail to the dune, which towers 450 feet above lake level.

Although going down the bluff is not recommended, it's also not prohibited for those who are up to the challenge. The way down is a little unnerving at first because it's steep, but once you get used to it it's smooth sailing. The way up is another story. I consider myself to be in good shape and it was strenuous. But if you're in decent shape, like a little adventure, and don't have a fear of heights, do it. You won't regret it.

There is an entrance fee of \$10 per vehicle, which gets you access to all areas of **Sleeping Bear Dunes National Lakeshore**. It's well worth the money and I was happy to help support these awesome parks.

Final Thoughts

As someone who comes from the ad world, my feelings about "Pure Michigan" were that it was just



a clever ad campaign. But this trip changed that. Pure Michigan embodies the fact that Michigan, and particularly northern Michigan, is one of the most beautiful, unspoiled places in the world. Let's keep it that way.

Where is your favorite spot to go hiking in Michigan?

Scott Christ is a writer, entrepreneur, and health enthusiast who helps people look better, feel better, and live longer with healthy real food recipes and motivational weight loss tips. Connect with Scott on Facebook or Twitter.



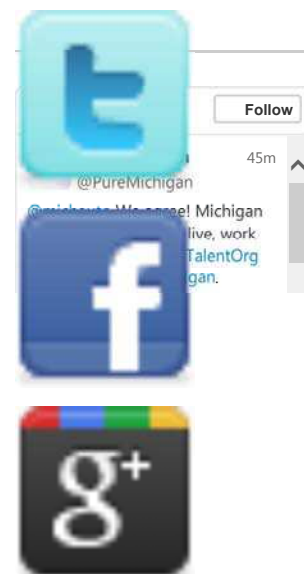


← From Our Community: Fall Colors in Pure Michigan

1,000+ Miles in Pure Michigan →

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Follow Pure



A vertical stack of three social media follow buttons. The top button is a light blue rounded square with a white Twitter bird icon. To its right is a white 'Follow' button. Below the Twitter button is a blue rounded square with a white Facebook 'f' icon. Below that is a dark grey rounded square with a white Google+ 'g+' icon. To the right of these icons is a vertical scrollbar and a small text preview: '@PureMichigan 45m Michigan live, work TalentOrg gan.'

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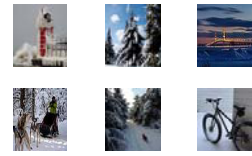
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Awesome Mitten (36)



Jesse Land(23)

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Select Month

Exhibit 24 to MDOT's MSJ



Savors and Flavors Along M22 and Sleeping Bear Dunes



1. Blue Fish Kitchen & Bar

312 River Street

Manistee, MI 49660

Phone: (231) 887-4188

Email: bluefishkitchenbar@gmail.com

<https://www.facebook.com/BlueFishKitchen/info>

This downtown eatery offers new American cuisine in a relaxed, lakeshore atmosphere. Featuring an extensive wine list, craft beer and artisan cocktails, hand-cut steaks, farm-to-table artisan fare, and a large selection of Great Lakes fish artfully prepared by a passionate team of chefs. Open seven days a week. Proudly participating in the Catch & Cook program.

A Michigan Wine Restaurant serving a selection of Michigan wines.

2. Douglas Valley Organic Vineyards

5375 Douglas Valley Drive

Manistee, MI 49660

Phone: (231) 887-3333

Email: sales@douglasvalley.net



MDOT000370

Douglas Valley is truly a unique destination located in Manistee Michigan. Our Tasting House offers our unique, award-winning hard ciders and wines. Our Farm Market offers a unique variety of farm fresh organic produce June through October. We harvest organic cherries, blueberries, apples and of course wine grapes. During harvesting months we have a Farm Market overflowing with local organic vegetables including tomatoes, green beans, onions, peppers, zucchini, squash, fresh herbs and beautiful flowers. Our vineyard has 8,000 vines of Pinot and Pinot Noir. Open Monday-Saturday 11am-6pm and Sunday 12pm-5pm. GPS: N44°19.350, W086°13.500.

3. **Pierport Farms**

12467 Northwood Highway

Onkama, MI 49675

Phone: (231) 889-5958

Email: onekama@gmail.com

Pierport Farms™ products are made from fresh fruit grown on farms and orchards surrounding Pierport, our Lake Michigan coastal community. The fruit is picked daily at its peak ripeness and prepared in small batches to create products with truly homemade flavor.



4. **Elberta Farmers Market**

M-22 and M-168

Dudley Penfold Memorial Marina Park

Elberta, MI 49628

Phone: (231) 383-5904

Established in 2002, this seasonal market operates Thursdays from mid-May through mid-October, from 8am until 12:30pm. Supporting local farmers and providing the best regional items from a five-county area, this market has grown into a community of friendships and business owners all with a common goal of providing the finest fruits, vegetables and other produce.



5. **Coho Cafe**

320 Main Street

Frankfort, MI 49635

Phone: (231) 352-6053

Email: frankfortcohoevent@live.com

Coho fine dining and spirits is located downtown, with a covered deck overlooking Betsie Bay. Featuring feature fresh fish from the Great Lakes, locally-raised meats and produce, Michigan drafts, fine wine and spirits, visitors will find gourmet fare in a friendly, relaxed atmosphere. Coho is open daily, May through October, with private parties, events and catering off season.



6. **Stormcloud Brewing Company**

303 Main St.

Frankfort, MI 49635

Phone: (231) 352-0118

Email: stormy@stormcloudbrewing.com

<https://twitter.com/StormcloudBrew>

<https://instagram.com/stormcloudbrew/>

Operating with the "Belgian-inspired, Michigan-made" philosophy, these well-balanced beers are brewed with specific attention to the yeast profiles and are served up in the 85-seat vintage-inspired taproom or outside on a 1200-square-foot covered beer garden. The pub menu is focused on foods that pair well with the beer offerings – including flatbread pizzas, soups, salads, sandwiches, charcuterie (cured meats, cheeses and house-made pickles), uniquely-flavored popcorn, little bites and desserts. Open year round.



7. **Hill Top Soda Shoppe**

7117 South St

Benzonia, MI 49616

Phone: (231) 882-9697

Email: hilltopsodashoppe@yahoo.com

We make all the ice cream here in Benzonia, Michigan. Our ice cream is super premium. 16% butterfat with low overrun. It is sweetened with michigan sugar beets, NOT corn syrup and there are no added hormones. We sautee the nuts and chop the chocolate by hand. We love our product and know you will too! If you're ever traveling through Benzonia, do take a detour off the main drag and visit our ice cream shop.



8. **Nonna's Ristorante**

1 Wood Ridge Road



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Glen Arbor, MI 49636

Phone: (231) 334-5000

Classically-inspired contemporary Italian cuisine prepared with the freshest local ingredients by Chef John Piombo. Served in a three level, timber-framed structure with natural stone fireplaces, a chef's table, two intimate dining areas and a warm and welcoming loft. Accompanied by full bar service and boutique wines. Located at The Homestead – America's Freshwater Resort.

Proudly serving Michigan wines.

9. **Carlson's Fishery**

205 River Street

Box 881

Leland, MI 49654

Phone: (231) 256-9801

Email: info@carlsonsfish.com

For more than a century, the Carlson family has operated this fishery in Northwest Michigan – now, five generations strong. The Manitou Islands, just 12 miles off shore to the west, offers some of the area's best fishing. Here, in historic Fishtown, you'll find both fresh and smoked fish, smoked fish sausage, smoked fish pate, beef and turkey jerky. Open seasonally.



10. **Martha's Leelanau Table Cafe**

413 N. St. Joseph St.

Suttons Bay, MI 49682

Reservations: (231) 271-2344

Phone: (231) 271-2344

Email: martha@marthasleelanautable.com

Martha's is open everyday for breakfast, lunch and dinner. Martha's could be best described as a European style cafe, where every entree is made from scratch, (including the pastries) and made from the very finest ingredients available in Leelanau County and the surrounding region. Please plan to join us for the best cafe dining you will ever experience in Northern Michigan. Go ahead... pull up a chair at Martha's Table. Martha's is open for breakfast and lunch seven days a week. Enjoy a full espresso bar, fine pastries by Susan McConnell, dinner every Friday and Saturday, and Sunday Supper at 6 p.m. Martha's also features a full bar. Breakfast is served every morning, and on Sunday until 2 p.m. It's always simple, and it's always fresh, with local eggs (poached, scrambled, or any way you like them), crusty bread toasted and served with strawberry jam, and buttermilk pancakes with blueberries and Michigan maple syrup. In the spring, enjoy frittatas with fresh asparagus and Leelanau cheese. Lunch might be a steaming bowl of classic pistou, a sandwich piled high with meats and cheeses, Martha's Caesar salad, penne pasta with fresh tomatoes and basil or a small, crisp-crust Pizza Margharita. But no matter the entree, it's always made from scratch and of the finest local ingredients.

A Michigan Wine Restaurant serving a selection of Michigan wines.



11. **Leelanau Cheese**

3324 S. West Bay Shore Drive M22

Suttons Bay, MI 49682

Phone: (231) 271-2600

Email: info@leelanaucheese.com

Award-winning artisan cheeses include a variety of cellar-aged Swiss Raclette cheese – rated "Best of Show" by the American Cheese Society in 2007 – as well as French Style Fromage Blanc cheese spread. John and Anne Hoyt, cheese makers and proprietors, use only pure, fresh, local cow's milk adding no color or preservatives. Come visit the new creamery, which opened in early 2014.



Stretching from Manistee to Benzie and Leelanau Counties, the M22 corridor is known for rolling through lush countrysides and along freshwater shorelines. Here, more than 30 restaurants and charter boat operators participate in the award-winning "Catch & Cook" program – where a day of fishing turns into a gourmet meal featuring your own fresh catch.

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Exhibit 25 to MDOT's MSJ



Manistee

Getaway to Manistee, Michigan

Looking to take a stroll down the Manistee Riverwalk, or take on the thrill of the tables at the Little River Casino Resort? Find yourself "on top of the county" as you drive along the beautiful scenic highway M-22, be sure to stop at "Inspiration Point", the Arcadia Overlook. Put on your walking shoes and travel up the 120 steps to the top of the lookout and gaze out on one of the most picturesque views in Manistee County.

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Outdoor Recreation

Get **outside** and play in the powder sand on a secluded beach or one packed with amenities and bustling with people, northern Michigan has the **beach** that is perfect for you. Enjoy over 40 miles of **mountain biking trails** carved out of the Manistee National Forest.

[Fishing](#)

[Golfing](#)

[Water/River Adventure](#)

[Arcadia Shipwrecks](#)

Festival & Events

Planning a weekend getaway or family vacation...our [event calendar](#) will assist you. Manistee's signature events include:

[Big Bear Butt Cruise](#), 8/22/15

[Manistee County Fair](#), 8/25/15 - 8/29/15

[Hops and Props](#), 9/18/15 - 9/20/15

[Manistees's Ghost Ship](#), 10/2/15 - 10/31/15

[Boos Brews & Brats](#), 10/24/15

Manistee County Mobile App

Explore self guided tours along with turn by turn directions to over 500 outdoor recreation sites. Find a comprehensive list of area events, shopping, dining and lodging.

[Apple Download](#)

[Android Download](#)

Lodging

From business to pleasure, you are sure to find the perfect **place to stay** in Manistee County. Find a quaint resort in the heart of the Manistee National Forest, enjoy a relaxing night at a lakeside Bed & Breakfast or **stay and play** at a great golf resort. Manistee County has the best place for you to put your feet up.

[Hotels & Motels](#)

[Vacation Rentals](#)

[Bed & Breakfast](#)

[Travel Packages](#)

[Attractions](#)

Something for everyone in **Manistee County**. Take a stroll down the **Manistee Riverwalk** or take on the thrill of the tables at the **Little River Casino**. It happens all happens here in Manistee County.

Must See Manistee

Historic Museums & Sites

Historic Tours

Check out Manistee's fine collection of **historic** buildings. Four self guided routes will take you through historic downtown.

The Ramsdell Building circa 1891 Video

Kaleva Bottle House Video

Vincent House Video

M-22 Scenic Highway

Spend the day on **Scenic M-22**. The pure white snow makes the road, the fields and the hills come alive, showing the tall pines peeking through the rolling meadows accompanied by snowmobiles and skiers as you make your way up M-22.

Shopping & Dining

Stroll through our historic downtown and shop the **quaint businesses**, clothing boutiques, classic shoe stores, coffee shops, **diners** and pubs. No cookie cutter stores here.

Boutique Shopping Tour

Specials

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Manistee Weather

Now



81°F
SUNNY, humidity 65%, barometer 30.02,
wind 7 mph SW

Monday



79°F | 62°F
A couple of showers and a thunderstorm

Tuesday



76°F | 66°F

Mostly cloudy with a shower or t-storm

Wednesday



74°F | 55°F

A couple of thunderstorms, mainly early

Thursday



70°F | 56°F

Mostly sunny and pleasant

Friday



77°F | 59°F

Sunny to partly cloudy and pleasant

Provided by Accuweather.com

Exhibit 26 to MDOT's MSJ



Arcadia



[Manistee County Visitors Bureau](#)

[Michigan's Great Outdoors](#)

Find Arcadia Activities:

[Play](#) | [Stay](#) | [Plan](#) | [Shop](#) | [Events](#) | [Deals](#)

Arcadia is located along Lake Michigan on M-22. This route was nominated Michigan's most scenic drive by National Geographic Traveler Magazine. Arcadia is a water lover's delight offering sandy beaches, Lake Michigan access channel, excellent fishing and boating. Home to Arcadia Bluffs Golf Course with Lake Michigan views. Rock collectors will find Arcadia's beaches a great place to hunt for Petoskey Stones. Visit the [Historic Arcadia and Arcadia Area Historical Museum](#).

A special point of interest is Inspiration Point, the highest point on the west shore of Lake Michigan with a park and lookout area. A new deck with telescopes has been added to the lookout by Arcadia Lions Club

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[Manistee County Visitors Bureau](#)

[Michigan's Great Outdoors](#)

[Taste of Benzie & Beyond](#) - event

[Curtain Call](#) - news

[Hitting Your Stride on Michigan Trails](#) - news

[Michigan's Freshwater Seas](#) - news



[Pure Michigan Outdoors](#) - news

[Scuba Diving and Underwater Exploration](#) - news

[Sunrise Coast Maritime and Nature Trails](#) - news

Arcadia



Arcadia Weather

Now



77°F

SUNNY, humidity 79%, barometer 30.01,
wind 9 mph WSW

Monday



78°F | 62°F

A couple of showers and a thunderstorm

Tuesday



77°F | 66°F

Cloudy to partly sunny and comfortable

Wednesday



76°F | 56°F

A shower and t-storm around in the a.m.

Thursday



70°F | 59°F

Breezy and pleasant with some sun

Friday



77°F | 61°F

Sunny to partly cloudy and pleasant

Provided by [Accuweather.com](#)



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Exhibit 27 to MDOT's MSJ



Pure Michigan Blog

Michigan's Official Travel and Tourism Blog



Take a Look at Michigan's Featured Destinations

Tag Archives: Road Trip

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Top 10 Reasons for a Fall M-22 Roadtrip

Posted on **September 14, 2010** by **Pure Michigan**

Brandy Wheeler, owner of Mealtickets & Unusual Ideas, takes us along a cruise of M-22, one of the country's greatest roadtrip adventures. She has ten reasons to consider M-22 for your next Pure Michigan adventure!

Named one of the Top Five Greatest Driving Tours in America by Rand McNally, M-22 has something for everyone: fantastic restaurants, picturesque scenery, shopping and more. Living in the heart of the M-22 corridor I have dozens of favorite stops along the scenic drive. For the sake of brevity, here are my Top 10 Reasons for a Fall M-22 Roadtrip.

[Continue reading](#) →

18 Comments

A Taste Tour of the Red Arrow Highway

Posted on **September 2, 2010** by **admin**

Emily Tennyson, Michigan Travel Ideas contributing writer, shares her Harbor Country experiences, as she tastes her way along the Red Arrow Highway.

Tucked into Michigan's southwest corner, the tree-lined Red Arrow Highway links eight tiny beachfront towns that make up **Harbor Country**. Along the two-lane road, you'll find clapboard cottages, galleries, antiques shops and plenty of one-of-a-kind restaurants. Wineries flourish in the area, too.

[Continue reading](#) →

1 Comment

A Texan Travels "Up North"

Posted on **November 12, 2009** by **Pure Michigan**

Thanks to Terry Porter for this great guest blog piece on her photo tour through Michigan – we hope you enjoyed your visit from Texas!

I found out that in Michigan "Up North" is a state of mind. You are south of the Upper Peninsula of Michigan but North of everything else.

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This kinda capsulizes our trip, looking down the road from the car.

Our photography road trip began and ended in **Ann Arbor**. A friend picked me up there at 6:45 AM on October 10. We drove to pick up two other Michiganders, all of whom I know only through the Internet. And then we were on our way.



Fallsburg Covered Bridge near Lowell, Michigan

Our first stop was at White's Bridge near Lowell. Then a few miles away, we stopped at the Fallsburg Covered

Bridge. Both of these were very picturesque with fall foliage around them.

We drove on to **Glen Arbor** near Little Glen Lake. Near **Sleeping Bear Dunes**, one of our group pointed out a grouping of barns, with a huge barn and two smaller ones in the same style. We came back to this location late in the afternoon when the light was wonderful.

Then, our plan was to watch and photograph the sunset from the Sleeping Bear Dunes. Unfortunately, the wind picked up and the sand started blowing, not good for cameras. We had dinner at **Boone Docks Restuarant in Glen Arbor** and retired to our hotel room where I was taught how to play Euchre.

The next morning we drove to **Fishtown** in downtown **Leland, MI**. Wonderful old buildings and nautical objects. Then on to **Traverse City** which I remember for pumpkin ice cream and Adirondack chairs as well as beautiful Traverse Bay. Soon we headed into Michigan's interior, with Jordan Valley as our objective.



Beautiful red fall leaves in Michigan!

We drove through the beautiful Jordan River Valley and found beautiful fall color, trees in intense hues of orange, yellow and red. Dead Man's Hill was particularly scenic.

Our group stopped for lunch in **Gaylord**, and when we got out of the car saw snow flurries for a few seconds, a treat for a Texan!



Otsego Lake State Park, beautiful fall colors

We waited for sunset at **Otsego Lake State Park**, a little south of Gaylord, and although it was quite chilly we got some nice lake shots.

Grayling was our hotel's location and we played some more Euchre. For some reason, night time geocaching in a cemetery seemed like a good idea, although we never found the cache. Even daylight didn't help us when searching again the next morning.

All too soon, we made our return to the South of Michigan and I headed home. I truly enjoyed my time "Up North"!

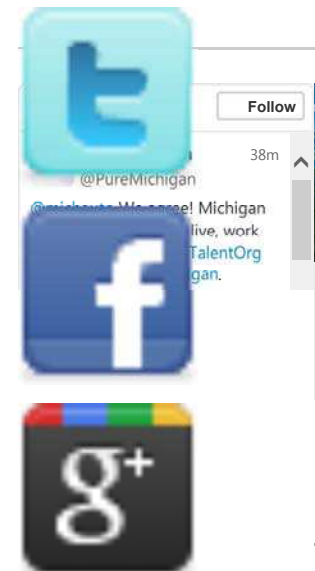
Terry Porter is a photographer who met up with 3 Michigan-based photographer friends that she met online for a Pure Michigan fall color photography tour. You can leave a comment below to let Terry know what you thought, or contact her via [Twitter](#). You can see more of Terry's photography on her [Flickr photostream](#).

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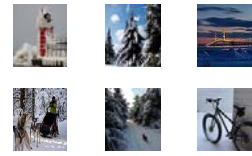
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Awesome Mitten (36)



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Exhibit 28 to MDOT's MSJ



West Central Region

Grand Rapids is *Lonely Planet's* "#1 Cool City." Within a short walking distance downtown are **Grand Rapids Art Museum**, **Gerald R. Ford Presidential Library and Museum** and **Public Museum of Grand Rapids**. Thirsty from your walk? Grand Rapids is officially **BeerCity USA**, offering 15 craft breweries in the area. Grand Rapids is also home to **ArtPrize**, a 19-day international art competition where half of the awards are decided by public vote. A short drive away is **Frederik Meijer Gardens & Sculpture Park** where you can take a "selfie" under its 24-foot American horse monument. Orencounter 1,100 animals plus a four-story, 300-foot zipline at **John Ball Zoo**.

Head to **Muskegon's Michigan's Adventure** amusement park, home to Shivering Timbers, the longest, fastest wooden roller coaster in Michigan. The former lumbering town still boasts beautiful Victorian mansions, including the **Hackley & Hume Historic Site**. Tour **USS Silversides Submarine Museum**, whose submarine is credited with sinking 23 major Japanese ships during World War II. Along the area's 26 miles of beach learn about the spectacular dune systems at the **Gillette Visitor Center** located in Muskegon's **P.J. Hoffmaster State Park**.

Travel north for a thrilling ride across the sand dunes at **Silver Lake**. Paddle the pristine Pere Marquette River through the **Manistee National Forest**. Spend the night in **Manistee**, a charming Victorian port city, best known for the historic **Ramsdell Theater** and 1.5-mile **Riverwalk**. Meander local highway M-22 for breathtaking scenery including the **Arcadia Overlook**.



Just above Silver Lake Sand Dunes lies **Ludington**, home to **the S.S. Badger** which is the largest car ferry ever to sail the Great Lakes. Enjoy beaches, lakes, rivers, trails, lighthouses and unspoiled dunes. Located within **Ludington State Park** are **Big Sable Point Lighthouse** and Great Lakes Visitor Center.

Know your travel dates? Check the **interactive travel map** to find more activities based on your destination, travel dates and interests.

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Exhibit 29 to MDOT's MSJ



Pure Michigan Blog

Michigan's Official Travel and Tourism Blog



See What's Happening Around the State in Our Monthly Events Roundup

Six Scenic Drives for Pure Michigan Summer Road Trips

Posted on June 28, 2013 by [Awesome Mitten](#)

As school and work schedules slow down and temperatures heat up, summer is the perfect time for a road trip in Pure Michigan! Nick Nerbonne of The Awesome Mitten has rounded up a list of some great road trips around the state.



Summer is meant for road trips with the windows down, music up, and good times on the horizon. Fortunately for Michiganders, and for those who visit us here in the Mitten, there are plenty of options for beautiful drives that showcase the beauty of the **Great Lakes State**.

I've had the pleasure of exploring quite a bit of Michigan's pleasant peninsulas, and when I hop in the car and hit the road from my home in **Traverse City**, I often find myself heading toward the miles of Great Lakes coastline that are always just a short drive away, no matter where you are in the state. Here are a few of my favorites:

1. Red Arrow Highway from New Buffalo to St. Joseph

Head north from **New Buffalo** on Red Arrow Highway along Lake Michigan to explore the quaint coastal villages of **Union Pier**, **Lakeside** and

Harbert on your way to **St. Joseph**. Known for its art galleries and antiques, this popular summer cruise also features numerous **Lake Michigan beaches**.

The region's climate is heavily influenced by Lake Michigan, and orchards and vineyards checker the landscape. Sample wines at tasting rooms for over a dozen wineries along the **Lake Michigan Shore Wine Trail**, and bring a few bottles home to open while sharing the memories.

Don't miss: **Weko Beach**

Follow the signs from Red Arrow Highway in Bridgman to this beautiful stretch of Lake Michigan beach. Day passes are available, or reserve a campsite and catch one of **Weko Beach's** famous sunsets.

2. M-22 from Arcadia to Frankfort

M-22 receives much of its well-deserved notoriety for the many scenic destinations along its northern



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reaches in **Sleeping Bear Dunes National Lakeshore**. While these are among my favorite day trips in Michigan, I often look further south along this scenic coastal highway, beginning in the village of **Arcadia**.

On a hot summer day, the beach at Arcadia is the perfect place for a refreshing swim along the sandy shore. After cooling off in the "Big Lake," head north along M-22 for scenic vistas from the tops of the wooded hills to the Lake Michigan port city of **Frankfort**. Grab a Michigan craft beer at newly-opened Stormcloud Brewing Company and stroll along Frankfort's pier to the very photogenic lighthouse.



Don't miss: Lake Michigan overlook just north of Arcadia

Head north along M-22 from Arcadia and stop at the scenic turnout just outside of town. Climb the steps for a spectacular view from atop the bluff.

3. M-23 from Tawas City to Alpena

Often overlooked by travelers heading north, Michigan's "**Sunrise Coast**" offers a Great Lakes setting with a beauty all its own. From M-55 in **Tawas City**, M-23 skirts the Lake Huron shoreline through the coastal villages of **Oscoda** and **Harrisville** on its way north to **Alpena**. Pack a picnic and enjoy the scenery at Alpena's waterfront park adjacent to the marina on the shores of Thunder Bay.



Harrisville State Park offers campsites directly on Lake Huron. Make your reservation early to get the best view of the beach.

Don't miss: Sturgeon Point Lighthouse

Constructed in 1870, this classic Lake Huron beacon is a must-stop when traveling along M-23.

4. River Road Scenic Byway

The **River Road Scenic Byway** leads visitors west along the AuSable River from **Oscoda**. The drive lives up to its name, with several viewpoints high above the AuSable Valley along the way, but also provides a glimpse into the area's past as a major hub in Michigan's timber industry. **Hiking trails** and elaborate staircases provide access to the water's edge, so bring your hiking shoes.

Don't Miss: Lumberman's Monument

Dedicated in 1932, **Lumberman's Monument** recognizes the hard-working lumbermen of Michigan's early logging industry. Follow the trail northeast from the

Lumberman's Monument Visitor Center for a panoramic view of the AuSable River and surrounding area.

5. US-2 from St. Ignace to Manistique

A trip across the "**Mighty Mac**" always involves breathtaking scenery, and the drive west from **St. Ignace** on U.S. 2 doesn't disappoint. After passing the famed **Mystery Spot** just outside of town, the highway re-joins the Lake Michigan shoreline for several miles. Locals and visitors alike stop along the way for picnics among the dunes and swimming in the Lake Michigan surf.

Any visit to "The Yoop" would not be complete without an authentic Upper Peninsula pasty. Hiawatha Pasties in **Naubinway**, about 45 minutes west of St. Ignace, is a favorite of locals and visitors alike.

Don't miss: Cut River Bridge Overlook

Park at the scenic turnout about 25 miles west of St. Ignace for a view of Lake Michigan and the Cut River 150 feet below; a trail and staircase lead to the valley floor for those looking for a mid-drive adventure.

6. M-134 from Hessel to Drummond Island

Head east on M-134 from I-75 north of **St. Ignace** for views of Lake Huron and the **Les Cheneaux Islands** that go undiscovered by many. The classic boathouses of the early-1900s cottages and rocky shorelines of Les Cheneaux's 36 islands are seen by many as reminiscent of east-coast hideaways found along the coast of Maine. If you're lucky enough to make the drive early in the morning, keep your camera ready for a photo of a sailboat moored among the morning mist in one of the many natural harbors.

Don't miss: Antique Wooden Boat Show in Hessel

Held each August in the Les Cheneaux Islands, the Antique Wooden Boat show is one of the largest



gatherings in the country of classic vessels dating back to the early 1900s.

Nick Nerbonne is an online marketing specialist, outdoor adventurer, craft beer drinker, wine enthusiast, and aspiring photographer from



Traverse City.



← Pure Michigan Fourth of July 2013 Events Roundup

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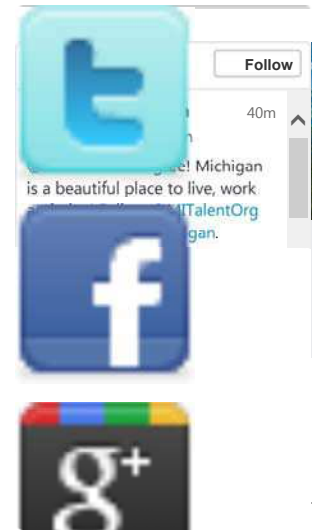


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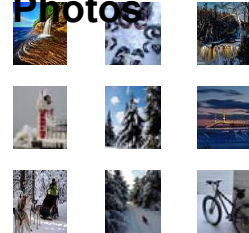
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Become a Guest Blogger and Share Your Pure Michigan Experiences

A Grand Romantic Getaway (Part 2)

Posted on July 2, 2013 by Pure Michigan

*Our **Pin to Win: Michigan in Love** contest was launched in February when we asked fans to create a Pinterest board that represented what an ideal romantic getaway looked like to them. We received a ton of great submissions, but ultimately selected Megan Battaglia of Buffalo, New York randomly as the winner. Megan immediately began planning a romantic getaway for her and her husband to take to Mackinac Island (and beyond!), which they enjoyed last month.*

Today Megan tells us about their magical voyage around the state, their favorite stops along the way and even mentions needing to make some return trips to the state in the future!

Read from her below and visit michigan.org to learn more about Michigan vacation destinations.



My husband and I have just returned from our Pure Michigan Romantic Getaway – 2 days in Mackinac Island at **Grand Hotel**, round trip air from American Airlines, and a Buick rental car. We did the best we could to explore as much of western and northern Michigan as we could and here is how we did:

Day 1

Our first stop in our luxurious Buick Enclave was the Pure Michigan information center in **New Buffalo** where we grabbed maps and guides for all the beach towns we planned to visit as we drove up the west coast of Michigan.

Next stop, **Holland**. Beautiful town, plenty of shops and restaurants. We decided to have lunch at the **New Holland Brewing Co.** and sample some of their craft beers. We then visited the Windmill Island Gardens and toured DeZwann – the only authentic working Dutch windmill in the US! Next, onto **Grand Haven** where we visited the lighthouse and pier and walked the 2 ½ mile boardwalk which was lined with shops, restaurants, marinas, and shady benches to sit and enjoy the view.

After driving through other beautiful beach towns like **Muskegon** and **Ludington**, we finally arrived

in **Mackinaw City** just in time for the sunset and to see the lights on the bridge. We stayed at a beautiful little motel "American Boutique Inn" right next to a waterfront park with a view of the bridge.

MDOT000399

Day 2

Finally, onto **Mackinac Island** and **Grand Hotel!** The town is like a scene from a movie set. Right away you notice the pace slows, people riding bikes, horse drawn carriages clop by, fudge shops offering free samples outside (it is ALL about the fudge here so we decided it was our "duty" to taste as many as we could). After shopping in town, we took Grand Hotel's carriage up to the hotel to check in. Our driver was a year round resident of the island and shared some fascinating stories about life on the island. As we pulled up to the hotel it was as grand and welcoming as all the pictures you see! We were greeted with smiles and given a quick orientation to all Grand Hotel has to offer. Our room was breathtaking – blue and green with beautiful antiques and a patio looking out over the lake. We were welcomed with a basket of champagne, roses, cheese, fruit and of course, fudge!



Megan's view from her room at Grand Hotel

We then decided to tour the grounds of the hotel to learn as much as we could about this amazing place. We had ice cream at the new Sadie's Ice Cream Parlor, visited the shops at the hotel, toured the flower gardens and the Esther Williams pool, walked the labyrinth, checked out the golf course, the Jockey Club and the Gate House restaurants, stopped in at Grand Hotel Outlet Store where they sell discontinued items from the hotel (the manager of the store is a wealth of knowledge about the hotel and the island!) Finally, we settled on the porch (the longest front porch in the US and is as amazing as you would expect with magnificent views of the lake and gardens) for cocktails and then headed in for a wonderful dinner.

Day 3

The next day, we thought we would like to see more of the island and learn more of its history so the concierge at Grand Hotel set us up with our own private horse and carriage tour. Our tour guide took us along the shore up into the state park, to Arch Rock and **Fort Mackinac** – it was all beautiful and fascinating!



That night, as another part of our prize package, we enjoyed dinner at the **Woods Restaurant** which is a short horse-drawn carriage ride into the wooded interior of Mackinac Island. The restaurant is in a beautiful, warm, and cozy Tudor mansion and serving Bavarian style food. After dinner we enjoyed drinks in the Audubon Wine Room back at Grand Hotel.

I have to admit we were sad to leave the next day! We did the best we could to take advantage of all Grand Hotel has to offer but we definitely need to come back to spend some more time here! I am already perusing the fall specials!

Day 4

We were back in our beautiful Buick and onto another road trip day! We headed straight down from Mackinaw City to Route 119 and the **Tunnel of Trees**, a 20 mile one lane road under a canopy of trees along Lake Michigan. It was everything I dreamt it would be! Along the way we stopped at the 70 year-old **Good Hart General Store** with absolutely amazing homemade baked goods, deli items and famous chicken pot pies.

From there we drove through Harbor Springs, **Petoskey** and **Bay Harbor** on our way to our final stop – **Traverse City** and the Leelanau Peninsula.

Day 5

Today we toured the Leelanau Peninsula by the way of scenic highway, M22. Our stops included:

Glen Arbor (beautiful beaches and home to the Cherry Republic Store and deli! Here it is all about the CHERRIES and we enjoyed them in every form they had!)

Empire (one of the best public beaches I have ever seen!)

Leland and Fishtown (ate at the Cove Restaurant perched right above the waterfall and looking down over the shops in Fishtown)

Wineries along M22 (including Chateau de Leelanau Vineyard, Black Star Farms, Good Neighbor Organic Vineyard, and Good Harbor Vineyards – there are so many more and another wine trail along the Old Mission Peninsula)

Suttons Bay (beautiful historic village with gorgeous views of the lake)

Day 6

For our last day, we saved the awe inspiring **Sleeping Bear Dunes**. This area has fascinated me since I learned a few years back that it had been voted the most beautiful place in America and it truly lives up to its name. Sleeping Bear Dunes is a 35-mile stretch of Lake Michigan shoreline with immense sand dunes sculpted by years of wind and water.



Megan and her husband stopping for a photo during one of their stops

Our trip has come to an end and here are some of the things we learned:

Everyone we met in Michigan was kind to us

Everyone we met also dreamed of staying at Grand Hotel

Lake Michigan is a vast, pure, and beautiful lake. The colors of the lake in some spots look like the Caribbean (turquoise, teal and navy blue) Now, I understand the T-shirt slogan "Lake Michigan Unsalted" – it looks like an ocean!



Northern Michigan's wines are delicious and rival those of any other state

The beaches of western and northern Michigan are some of the most beautiful beaches we have ever seen

We need MANY trips back to discover more. I don't think we even scratched the surface of all there is to see and do.

I have become a "Pure Michigan Ambassador" and thanks to this wonderful prize trip, I have peaked the interest of so many people who have never thought of Michigan as a vacation spot – and many of them are already planning their trips to Michigan!

Thank you **Pure Michigan**, **Grand Hotel**, American Airlines and Buick for the trip of a lifetime – and we will be back!

Congrats again to Megan on being the winner of our Pinterest contest! We are thrilled that she and her husband enjoyed their trip to Michigan.

What would your perfect Pure Michigan trip entail? Tell us in the comments below.

← Pure Michigan June 2013 Fan Photos

10 Things To Do in the Great Lakes Bay Region →

3 Comments

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Mick · 2 years ago

After reading this post, I can not wait to plan to visit Michigan. I love the outdoors near lakes and beaches and to be honest never gave Michigan a thought until now. Thanks Megan for sharing your magical voyage.

△ | ▾ · Reply · Share ›



Romantic Trip Planning · 2 years ago

We should go for a good romantic trip. I'll get married soon. I'll go with my cute life partner to Australia.

△ | ▾ · Reply · Share ›



lynn · 2 years ago

I entered this contest and am glad to see a follow-up post. Again, congrats to Megan and her husband. Sounds like they had a lovely time not only on Mackinaw Island, but getting there and back, also. UpNorth Michigan, always a great place to visit. LMR

△ | ▾ · Reply · Share ›

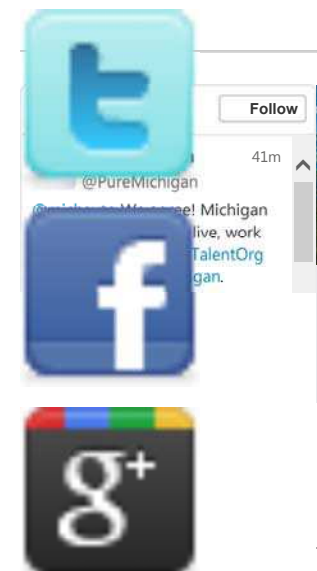
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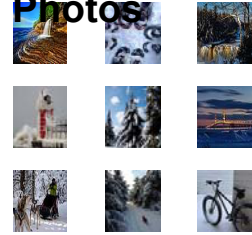
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Exhibit 31 to MDOT's MSJ



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See What's Happening Around the State in Our Monthly Events Roundup

A Love Note to Leelanau

Posted on July 5, 2011 by Pure Michigan

Dearest Leelanau County,

Since our first summer with you in 1980, we haven't been able to get you off of our minds. We knew we loved you from the moment we drove up M-22 and saw your bright red cherries poking through trees in the orchards, as clear blue skies and cotton ball clouds danced above.

Not even distance has been able to keep us apart. Although we moved to Pennsylvania nearly 20 years ago, we defy conventional east coast summers spent "down the shore" and instead, head "up north" to see you, despite the blank stares we get when we talk about your cottages, Manitous, and Petoskey stones to those who do not understand what it means to love you.



Taking the M-22 Drive



4th of July Parade in Leland

strawberries picked up at roadside stands leave a sweet reminder of you. And we cherish the treasures you leave for us in the form of rocks and "Leland Blue" on your shores.

Your sunsets bring us all together for a final evening show, as we sit recalling memories of years spent with you- 4th of July parades marched in, Pyramid Point trails hiked, white fish dinners grilled, Sunfish boat trips sailed, Blue Angels spotted.

Leelanau, thank you for being a part of our history, and for allowing us to be a little piece of yours.

With Love,

The Taylor Family
Martha and Doug Taylor, Newtown, PA

That's because to love you is to be a part of a secret- a secret held only by those of us who have been blessed to sneak away from it all and spend even just a week of our summers with you.

Your birch-lined beaches and potluck dinners on picnic tables captivate us. And days spent with you, bobbing through the brisk waters of Lake Michigan in giant, black inner-tubes keep us coming back for more.

Fingers stained from your cherries and



Sunset over the Manitous



Erin Taylor, Washington D.C.
Katheryn Taylor, Washington D.C.

Happy Fourth of July at Jolli Lodge on Lake Michigan

← Have a (Safe) 4th of July Weekend

My Mackinac Island Fairytale Wedding →

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Jan Shafer-Bunting · 4 years ago

i enjoyed reading all of the above as I feel the same way about my beautiful birth state of Michigan. I have lived in many states since 1977, but the few times I have been back have made me wish that everyone could see what an awesome state Michigan is. Can anything in this world beat standing on a bluff, hearing the waves and seeing the incredible blue-green water below?? Or watching a brilliantly colored sun set over the Lake?? I could go on and on...

△ ▾ · Reply · Share ›



peggy harris · 4 years ago

I spent most of my childhood summer vacations in an A-Frame cottage between Leelanau and Northport. The cottage was located directly on Lake Michigan and it was absolutely "Beautiful. We would go to Leland and get smoked chubs at the shack by the damn, then throw the heads in the water for the fish to eat. Those sure were the good days and I would give anything to be able to spend time like I did as a kid. Wonderful Memories indeed!

△ ▾ · Reply · Share ›



Annette · 4 years ago

Taylor Family...I grew-up every summer coming for vacation on Green Lk. in Interlochen so we know the area well...as Tammy expressed above, it pulls at the chord in my heart. My whole family, grandparents, aunts, uncles and cousins enjoyed many memories there yearly, we would rent 2-3 cottages and enjoy a couple wks. together. As we married, we to have passed this to our own children and now having a grandson, hope to have some of those times back in the same area. There's not a place I would rather be or go, not getting to go there this summer which is breaking my heart, but will somehow in the yrs. to come. The fun of going out in the lake jumping off a boat and swimming, fishing, hearing the music from the camp, nights laying outside on the dock to see the stars, hearing the loons and campfires fill my heart with memories and a bit of sadness since my parents passed away last yr. and they so loved it. I loved it so that I worked 3 yrs. at the Music Camp in college and still keep in touch with a friend from there. So, to all of you that know how this feels, thank you...my life wouldn't be much without the wonderful memories I shared in the Grand Traverse area of Michigan. It made me a better person to appreciate beauty, serenity and be closer to God for the few wks. a year I had in that beautiful area.

△ ▾ · Reply · Share ›



Marty · 4 years ago

I may have been born in Baltimore, however grew up outside of Detroit. Michigan will always be home to me. I miss it so and maybe one day, I will move back.

△ ▾ · Reply · Share ›

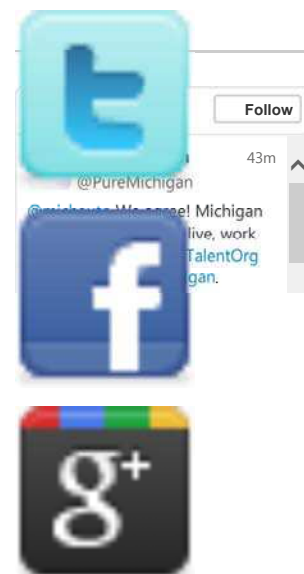


Scott Snow · 4 years ago

We were just there this past week! I cant imagine moving away from Michigan because I would also miss this area more then anything, and I feel for those who have moved. Most people who have never been to this area would have no idea the lasting impressions of the small towns, lakes, and sand dune lined, aqua blue water beaches. Once you visit...your hooked for life. I believe the beauty of this area... and many more areas of Michigan, can equal or surpass any place in the countrv

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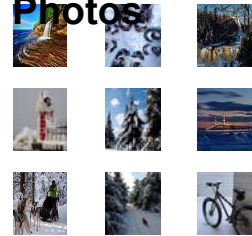
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See Some of the Pure Michigan Advertisements Being Played Across the Country

Old Baldy, That's Where It's At!

Posted on **September 3, 2010** by **admin**

Blogger John Yonkers III takes us along on a hike that manages to shine, despite the rainy weather.

There is a spot, up north, that has been sort of elusive to me for a while. It goes by the name Old Baldy.

After searching web articles and looking at maps I found the general area where I thought this alleged massive bluff was located.

Despite the drizzle, Chels and I trekked north on M22. We passed Inspiration Point and numerous overgrown two-tracks that looked like they could almost be the Baldy Trailhead.

Alas, a mere 1,000 feet past Inspiration Point the Grand Traverse Land Conservancy sign appeared on the west side of the road. The real bummer about this place is that the sign, although quite large, is set too far off the road to be easily visible to the passing motorist.

When we arrived at the trailhead, checked the map and due to the increasing rain opted for the 0.7 mi path to Baldy.

As we headed down the thickly wooded trail we took note of the hard-packed trail. I am very excited to take the bike down in a few weeks!

The rain continued to pound while we pushed on. Even throughout the hike we both remained happy hikers!

Guess what, we got to a fork in the road and instead of taking the normal path we would take a new path, can you say adventure!

The 0.7 mi trip seemed to fly even in the pouring rain.



An ingenious solution to prevent dune erosion

I was very interested in the set of stairs that lead to Baldy: they are a teak-like wood held together by steel cable. What a brilliant way to make steps and help evade erosion! These things are amazing and very functional.

Atop these steps rests the reason for this hike through the soggy woods: the dune blowout known as Old Baldy!

Looking north offers views of Lower Herring Lake and even **Frankfort** if you look closely, and if you take that path I am sure you would see more.

The depth of these massive blowouts is only fathomable when you compare their depths to the height of the full grown trees behind them. The area is just beautiful. We



Our trek begins

both nearly lost our breaths when we came upon this place. We were also bewildered that we have lived around here our whole life and have never been to this place!

Here I sit, atop what is actually Old Baldy. It is very overwhelming. To get a true sense of how far down the lake is, when we were up here a small biplane flew by and we could see the tops of the wings!

The wet walk was worth it. As we trudged back to the car we discussed how nice it will be to take fall hikes for the color, and winter snowshoe treks to get a unique view of the area in all seasons!

Awesome quick hike, cannot wait to take the longer loop next time we are home and also to check out the trail with the bike as it looked very technical.



The view from Old Baldy

John Yonkers III is the founder/writer for the Michigan based adventure blog <http://randomstreamoc.blogspot.com/>. He enjoys kayaking, hiking, photography, reviewing new gear, swimming, mountain biking, fishing, snowshoeing, camping and the outdoors in general. Most of all he loves to share his adventures and stories with anyone who will lend an ear.

← [A Taste Tour of the Red Arrow Highway](#)

[High-Flying Adventure](#) →

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Sue · 4 years ago

Thanks so much for the pictures and review. We did this hike last Summer. It is so beautiful...the trail through the forest is amazing.

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John · 5 years ago

Jeanette; I have heard of Mount Baldy in Saugatuck, I will most definitely check it out sometime when I am in that area. Thanks!

Rich; Thank you very much for checking it out. My website has a ton of other reviews and little stories about trips of mine. I am going to look for that bluff around Holland. I have not spent much time around there, but I do know that it is beautiful, like all of Pure Michigan!

Thanks to all for taking the time to read this. Please visit my blog for more info on my recent trips as well as gear reviews and news about the great outdoors!

-John

△ | ▾ · Reply · Share ›



Rich · 5 years ago

Hey:

Really enjoyed the pic's and review. One of my favorite bluffs is b/w Holland and Saugatuck. Don't remember the name, but it's off the road that goes south from the marina on Lake Macatawa. Huge sandy hill and a great view of Lake Michigan. Not to mention lot's of fun with coolers of beer, friends, cheese and crackers.

Rich

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jeanette · 5 years ago

love hiking the dunes, I climb another "baldy" -Mount Baldy in Saugatuck, myself- very challenging and fun

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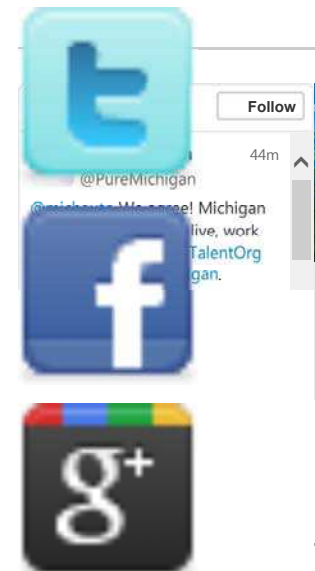
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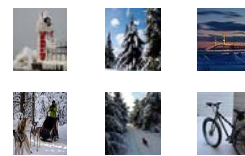
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See What's Happening Around the State in Our Monthly Events Roundup

Six Self-Guided Tours You'll Want to Take in Manistee County

Posted on April 21, 2015 by Pure Michigan

Spring is well under way in Pure Michigan, offering endless opportunities to explore the great outdoors. If you're looking to go off the grid, or maybe just want to have an enriching afternoon, look no further than Manistee County. To celebrate warm weather and longer days, here are six self-guided tours you won't want to miss in Manistee County.

Shop Manistee's historic downtowns: Looking for a great made-in-Michigan item? Come check out the farmer's markets for locally grown or made foods, or browse the numerous specialty and boutique shops in downtown Manistee. Manistee also has spectacular dining experiences, from fine dining for a special occasion or just grabbing a beer with friends at a local pub.

Experience M-22: A famous stretch of highway in the United States, M-22 starts in Manistee. Take an afternoon drive or make it a weekend road trip and enjoy the beautiful scenery and Lake Michigan shoreline. The historic trunkline's designation has also become a cultural symbol for the region.



Photo courtesy of Marty Dunham



Photo courtesy of Manistee County Visitors Bureau

See the Bridges of Manistee County: How can you not love the beauty and engineering that goes into these amazing structures? Manistee County is home to three vehicular, three railroad and one massive pedestrian bridge along with two hydroelectric dams and one egg-take/salmon harvest weir. If you are a fan of these beautiful structures and appreciate the engineering, you are sure to enjoy this self-guided tour.

Learn the History of Manistee: Manistee County has one of the finest collections of historic buildings in the Nation according to the Michigan State Historic Preservation Office. You can experience the historic Kaleva Train Depot for railroad artifacts and nostalgia, or visit the **Manistee County Historical Museum**, which contains one of the most extensive collections of

Victorian antiques in the United States.

Go on a Pure Michigan Tasting Tour: Manistee County and Northern Michigan are fortunate enough to have some of the most diverse and bountiful growing seasons in the entire United States. Taste test your way through Manistee County by visiting some of the U-Pick farms and markets or dining at one of the many local restaurants that embrace farm to table by incorporating seasonal specials.

Explore the Natural Wonders: Manistee is a wonderful place to explore the great outdoors. Traverse the shores of Lake Michigan and explore the Natural Wonders. From the artesian wells in **Onekama**, the picturesque

views atop **Old Baldy**, or a scenic drive through the Tunnel of Trees, these nine sites were selected as part of the Natural Wonders Tour because of their amazing stories and sights. Make sure to bring your camera!

Are you ready to plan your trip to Manistee County? Learn more about travel ideas and attractions in Manistee [here](#).



Photo courtesy of 22 North Photography's Brian Edwards

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Bill Garber · 4 months ago

Don't forget to drop a few bucks at Little River Casino!

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Richard Oman · 4 months ago

On our way today to check out a play performance at the wonderful Ramsdell Theatre.

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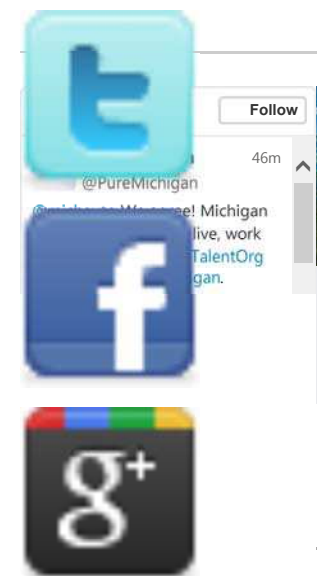
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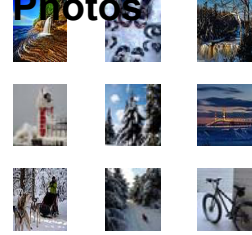
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Welcome to the  Color Tour Website!



Michigan's Finest Fall Color Tour Destination!

Find your way to M-22 in Michigan's beautiful northwest Lower Peninsula, and one of the prettiest fall color tours you will ever experience. M-22 is 116 miles of scenic highway winding through the countryside of Benzie, Manistee, and Leelanau Counties. The colors will amaze you, spring, summer or fall! Nostalgic villages, quaint towns, small cities and spectacular vistas are welcoming and offer all you are looking for. Explore the Lake Michigan shoreline, climb the Sleeping Bear Dunes, discover art galleries, wineries and dining, from distinctive to casual. Travel along M-22 to see for yourself why it was voted as 'The Most Beautiful Place in America' on Good Morning America. Visit our [events](#) page to see what's happening in the area, including a [Film Festival](#) in Frankfort, Festivals, and giant pumpkin carvings. Plan your trip today for fall and [spring](#) colors and events.



You'll find lodging choices to fit any desire from world class resorts to cabins on a lake or river. Bookmark this page and come back often for updates on all the events M-22 Color Tour has to offer. For more information, browse our pages with [maps](#) and [lodging](#) choices, or click on our partners' links below.

Photography on M22ColorTour.com by Take Action Photos, Monte Spanier, B. Garber



1-888-334-8499



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July 30, 2013

BY FACSIMILE AND REGULAR MAIL

Enrico Schaefer, Esq.
Traverse Legal PLC
810 Cottageview Drive, G-20
Traverse City, MI 49684

Re: Murdick's Fudge Shoppe, LLC

Dear Mr. Schaefer:

I have been retained by Murdick's Fudge Shoppe, LLC ("Murdick's") to defend it against your client's allegations of misuse of the M-22 sign on merchandise in the fudge stores in Suttons Bay and Leland, Michigan. Based upon prior negotiations, correspondence, and proposed settlement agreements originating from your office, I understand that you represent Broneah, Inc. and M22, LLC ("Broneah").

Please be advised that any prior contract executed by Murdick's in an attempt to amicably settle this dispute is hereby revoked and nullified, and any execution by Broneah of that document would not create a valid contract. Further, I kindly reiterate the request of my client's former counsel, Douglas Bishop, that Broneah, and its principals, including Mr. Keegan Meyers, cease any further harassment of my client and its principals and employees, and that all communication be directed to me. I appreciate your assistance in this regard.

Your client's trademark registration of the State of Michigan's M-22 road sign was unlawful and may be cancelled at any time. While the 5 year period for challenging the 2007 filing, which includes a border around the State's design, has generally passed, the defense of a violation of Section 1052(a) of the Lanham Act is a statutory ground for cancelling the trademark that may be raised at any time. It should be noted, however, that the M-22 design being used by Murdick's is the exact replica of the State of Michigan road sign, derived from Google images of the State's sign, which was unlawfully registered by your client on July 12, 2011. This later filing is still well within the five year period for challenge and is absolutely subject to challenge on all grounds.

In either case, Murdick's would be successful in challenging the erroneous registration of Michigan's highway sign because, *inter alia*, the registration falsely suggests a connection with the State and the Michigan Department of Transportation ("MDOT"). In his opinion dated May 29,

M22000396

Enrico Schaefer, Esq.
Traverse Legal PLC
July 30, 2013
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2012, the Michigan Attorney General made it clear that the federal Manual on Uniform Traffic Control Devices "is consistent with case law establishing that materials or works in the public domain are not subject to trademark protection," and that "Michigan's highway route marker design cannot – indeed 'shall not' – be subject to trademark protection." While legal issues involving trademarks are generally a matter of federal law, the Attorney General was absolutely correct in citing Section 1052(a) of the Lanham Act, which precludes trademarks that "falsely suggest a connection with persons, living or dead, [or] institutions," including the State of Michigan. The design has been used in and by the State, and within the public domain, for decades, and the State's reputation is inextricably associated with the design of the highway it designed, built, and maintains, and for which it expended public funds, and manufactured and posted signage. The State did not approve or grant your client exclusive use of its design, and your client did not disclose the false association between this design and the State to the U.S. Patent and Trademark Office.

In his pursuit of Murdick's, apparently outside the scope of your advice and representation, Mr. Keegan Meyers is harassing and interfering with Murdick's business operation, calling the business telephone(s) multiple times each day and going into the stores to harass and intimidate my client and its employees. All of these actions have been documented, and are intended to extort a settlement from my client that unlawfully forces the business to permanently discontinue certain sales to consumers and acknowledge an ownership interest by your client in the M-22 design that does not exist as a matter of law. Our information further confirms that your client has engaged in this type of abusive, illegal activity with other area retailers.

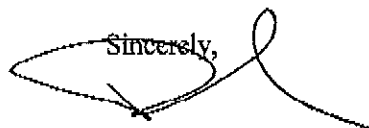
With respect to Murdick's, your client is advised that it will not be extorted into executing an illegal agreement. Murdick's will protect its business and right to lawfully sell products to its customers, including products it currently carries that bear the State's M-22 design. Thus, if your client seeks to enforce its specious trademark, or fails to immediately stop its unlawful conduct, Murdick's will seek to hold it liable for false competition in violation of the Lanham Act, unfair trade practices under the Michigan Consumer Protection Act, and unfair competition and tortious interference with prospective business advantage under the common law. Under such laws, Murdick's would be entitled to injunctive and declaratory relief, business damages and reasonable attorneys' fees. To be sure, it would seek to fully and finally resolve issues related to the termination of your client's purported trademark and the protection of Murdick's business.

Presently, Murdick's does not intend to expend the resources necessary to seek cancellation of your client's trademark. Rather, it would prefer to coexist and no longer be harassed by your client. Nevertheless, if the harassment continues, or if suit is brought by your client, Murdick's will, without further notice or demand, fully protect its legal rights by pursuing all of its remedies against your client, including, without limitation, by counterclaim, suit, and/or Petition for Cancellation before the U.S. Patent and Trade Office.

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I trust this correspondence will end the conflict between our clients. Nevertheless, feel free to contact me if you have any questions or concerns.

Sincerely,

Douglas Fierberg

DEF/edd
cc: Ms. Michelle Murdick, Murdick's Fudge Shoppe, LLC

August 27, 2013

dfierberg@bode.com
Douglas E. Fierberg, Esq.
Bode & Grenier, LLP
1150 Connecticut Avn NW, Ste. 900
Washington, DC 20036

Re: Murdick's Fudge Shoppe, LLC

Dear Mr. Fierberg:

Thank you for your letter dated July 30, 2013. Please be advised that all prior settlement offers to Murdick's Fudge Shoppe, LLC ("Murdick's") are hereby withdrawn. It appears you are intent on challenging our clients' M22 trademarks based on confusion with an institution, i.e. the State of Michigan. Our clients have spent seven years developing the M22 brand. You should be aware that in the tens of thousands of customers who have frequented that store in that time, there is no record or evidence of any single customer ever believing that the store or products were in any way affiliated, sponsored, owned or affiliated to the State of Michigan. Moreover, your client lacks standing to challenge the marks on Section 2(a) grounds. I would recommend that you review case law in this particular area, which is very favorable to our clients' position.

In *Internet, Inc. v. Corporation for Nat'l Research Initiatives*, 38 U.S.P.Q.2d 1435 (T.T.A.B. 1996), TTAB address this very issue squarely. A mark contested under Section 2(a) "must point uniquely and unmistakably to the identity or persona of the 'person' or 'institution' asserting the claim." *Id.* at 1437 (emphasis added). Stating this point even more clearly, the court in *Heroes, Inc. v. Boomer Esiason Hero's Foundation, Inc.* said, "to raise a claim that a mark falsely suggests a connection with an institution under Section 2(a), the challenger must be the *institution itself*." 43 U.S.P.Q.2d 1193, *3 (D.D.C. 1997) (emphasis added) (finding that because the defendant was not United States Congress or the D.C. Metropolitan Police Department, it was not entitled to raise a claim that plaintiff's mark falsely suggests a connection with those institutions): *see also Petroleos Mexicanos v. Intermix S.A.*, 97 U.S.P.2d 1403, *2 (T.T.A.B. 2010) (Petitioners seeking cancellation of a trademark have standing to raise a Section 2(a) claim based on their identity is institutions). Additionally, several other TTAB decisions, though non-precedential, offer persuasive guidance on this point. *E.g.*, *Cavern City Tours Ltd. v. Hard Rock Cafe Int'l, Inc.*, Cancellation No. 92044795, 2011 WL 5014033 (T.T.A.B. Sept. 29, 2011) (noting that to prevail on its 2(a) claim, the petition must show that the mark at issue was *the petitioner's* identity); *Bridgewater Candle Company, LLC v. Elephant Design Limited*, Cancellation No. 30,658, 2002 WL 122608 (T.T.A.B. Jan. 30, 2002) (stating that Petitioner was not entitled to assert a claim on behalf of Emma Bridgewater and its allegation that Respondent's mark falsely suggests a connection with Emma Bridgewater constituted an admission by Petitioner that the mark does not point uniquely and

unmistakably to *Petitioner*, thus its Section 2(a) claim failed). Because your client is neither the State of Michigan or any subdivision or entity thereof, such as the Department of Transportation, your client cannot possibly show that our clients' M22 marks "point uniquely and unmistakably to [Murdick's] identity or persona." *Internet, Inc.*, 38 U.S.P.Q.2d at *1-2.

Even if Murdick's *did* have standing to petition for cancellation of the M22 marks on Section 2(a) grounds, cases decided on such grounds make it clear that false association might arguably occur when the institution or government is using the mark in connection with the same services as the trademark holder. For example, if our clients attempted to open a toll road and use the M22 marks in connection therewith, consumers travelling such road might falsely believe that the road was operated by the State of Michigan. *See In re Cotter & Co.*, 228 U.S.P.Q. 202 (TTAB 1985) (WESTPOINT for firearms was rejected as falsely suggesting a connection with the U.S. Military Academy (West Point)). Conversely, where the government has no existing fame or notoriety with regard to the goods being offered by the trademark owner, there can be no false association. *See Heroes, Inc. v. Boomer Esiason Hero's Foundation, Inc.*, 43 U.S.P.Q.2d 1193 (D.D.C. 1997) (a composite mark consisting of the word HEROES on a shield design with a picture of the U.S. capitol building in the shield does not violate Section 2(a) because it does not mislead persons into assuming that the U.S. government has sponsored or approved of the charitable services symbolized by the mark); *see also U.S. Navy v. United States Manufacturing Co.*, 2 U.S.P.Q.2d 1254 (T.T.A.B. 1987) (When used on orthopedic devices, the letters USMC did not point uniquely to the United States Marine Corps).

Similarly, there is no reasonable claim to be made under Section 2(b). Section 2(b) identifies a number of items associated with government functions that are specifically precluded from registration. Specifically, Section 2(b) precludes registration of "the flag or coat of arms or other insignia of the United States, or any State of municipality, or any simulation thereof." *See also* TMEP § 1204.02(a) ("Flags and coats of arms are specific designs formally adopted to serve as emblems of governmental authority.") "Other insignia" is meant to be read narrowly and "include[s] only those emblems and devices that also represent governmental authority." Road signs clearly fall outside of Section 2(b)'s prohibitions, but in case there is doubt, TTAB made clear that "department insignia which are merely used to identify a service or facility of the Government are not insignia of national authority and that they therefore do not fall within the general prohibitions of this section of the Statute." *In re United States Dep't of the Interior*, 142 U.S.P.Q. 506, 507 (T.T.A.B. 1964). Thus, they fall outside the scope of Section 2(b). There is no 'catch-all' provision that exempts other government landmarks, buildings, symbols or designs, thus making them available for trademark use and registration. In fact, the USPTO Design Search Code Manual contains a category specifically for design marks that contain traffic or road signs, Category 18. *See* http://tess2.uspto.gov/tmdb/dscm/dsc_18.htm#18 (Note, in particular, category 18.15.03.). Your client's lack of standing aside, we are having some difficulty understanding specifically what grounds Murdick's would defend a trademark infringement lawsuit, file a counterclaim or file Petition for Cancellation.

As you are also aware, neither the Michigan Attorney General or the federal Manual on Uniform Traffic Control Devices is remotely relevant to trademark registration under the Lanham Act. Your suggestion that enforcement of our trademark is somehow "extortion" is both unprofessional and unsubstantiated. We will aggressively protect our clients' marks

including by way of federal court complaint and by way of registrations and/or other necessary action before the USPTO. We will pursue all damages available under law and, given the frivolous nature of your defense, we will pursue an action for willful infringement by your client. We are confident that maximum damages will be awarded under the law well into seven figures. Not only may our clients recover Murdick's profits, damages sustained and costs of the action, *see* 15 U.S.C. § 1777(a), but in a case involving willful infringement such as this, our clients may instead elect to recover statutory damages in the amount of \$2,000,000 per counterfeit mark per type of goods/services sold, offered for sale, or distributed, *see* 15 U.S.C. § 1117(c)(2); *see also* 15 U.S.C. §§1114-1125. While we understand that you may be representing Murdick's pro bono (at least that is what your client has indicated to our client), the liability belongs to Murdick's. Any judgment or award will be paid by Murdick's.

Your letter fails to indicate whether or not Murdick's intends on continuing to sell goods including the M-22 trademarks. Please provide us with a clear statement of your client's intent.

In the meantime, do not hesitate to contact me if you have any further questions. I look forward to working with you on this important matter.

Very truly yours,

Traverse Legal, PLC

A handwritten signature in black ink, appearing to be 'ES', enclosed within a large, loopy circular flourish.

Enrico Schaefer
Attorney at Law
enrico@traverselegal.com

CES/plb

Exhibit 36 to MDOT's MSJ

M22000233

TRAVERSE legal

ATTORNEYS & ADVISORS

810 Cottageview Dr. 231 932 0411 TEL
Suite G 20 231 932 0636 FAX
Traverse City
Michigan 49684 traverselgal.com

August 17, 2010

Riverside Canoe Trips
5042 N. Scenic Hwy
Honor, MI 49640
(231) 325-5622

RE: Unlawful use of mark confusingly similar to M22

Dear Sir or Madam:

We represent the interests of M22, LLC, a corporation organized under the laws of the State of Michigan. M22, LLC is a retailer of clothing, sporting goods, and novelty items, which it sells through its M22 retail brick and mortar and online stores. Local kiteboarding icons Matt and Keegan Myers, the founders of M22, LLC, created the M22 brand to pay tribute to the northern Michigan road of the same name and the natural beauty of its surrounding areas.

M22, LLC has used the M22 mark in association with its line of products since November 2007. The M22 mark has been extensively and exclusively used and advertised as a designator of source for our client's products, and the M22 mark has been displayed nationally, such as in the photograph attached as Exhibit A, which was widely distributed across the United States on the cover of Traverse Magazine. Further, our client has displayed the M22 mark in association with the advertisement and sale of products through its website located at <http://m22online.com>. As such, our client has obtained common law trademark rights in the M22 mark.¹

It has recently come to our attention that you have adopted and are currently using a mark that is identical to our client's M22 mark. Specifically, you are currently using the M22 image mark in association with your sale of stickers and other novelty items, as evidenced by the attached Exhibit B. This letter serves as your notice that you have infringed upon our client's trademark rights. As such, you face liability for trademark infringement.

Section 45 of the Lanham Act states that a mark is used in commerce when it is "is placed in any manner on the goods or their containers or the displays associated therewith..."²

¹ See *Trade-Mark Cases*, 100 U.S. 82, 94 (U.S. 1879) (holding that common law trademark rights are created through use in commerce).

² See 15 U.S.C. 1127.

August 17, 2010

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Trademark ownership, in turn, is determined through the priority of use of a mark in commerce in association with goods or services.³ Our client has used the M22 mark in association with its goods since November 2007. As such, our client gained common law rights in the M22 mark prior to your use of the same mark. Additionally, our client is the holder of registrations for the M22 in a variety of International Classes for use in association with several different goods or services. Evidence of these registrations is attached to this letter as exhibit C.

One may be held liable for trademark infringement where one uses, without the consent of the trademark holder, a mark that “is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person.”⁴ Where trademark infringement is established, the mark owner may recover the defendant’s profits, as well as the mark owner’s actual damages and costs of the action.⁵

Your adoption and use of a mark that is likely to cause confusion, to cause mistake, or to deceive as to the affiliation of M22, LLC with Riverside Canoe Trips, namely, your use of the M22 mark, has subjected you to liability for trademark infringement. As such, you may be held liable for significant monetary damages.

In light of the foregoing, we hereby request that you **comply with the following by September 6th, 2010:**

1. Cease and desist any and all use of our client’s M22 mark, or any colorable imitation thereof, that is likely to cause consumer confusion;
2. Provide an accounting of all profits made from the use of M22 to sell stickers and other goods featuring the mark;
3. Destroy any and all marketing materials, catalogs, labels, or the like that use M22 to indicate the source of your goods and provide evidence and confirmation of same;
4. Provide confirmation, in writing, of compliance with the above demands.

Your failure to comply with these requests by the date mentioned above may subject you to a lawsuit for trademark infringement. Should you wish to continue selling stickers bearing our client’s M22 mark after September 6, 2010, our client would be happy to sell them to you for their resale price. Understand that our client respects your longstanding support of the local community and your commitment and contribution to the spirit of northern Michigan.

³ See *Western Stove Co. v. Geo. D. Roper Corp.*, 82 F. Supp. 206, 217 (D. Cal. 1949).

⁴ See 15 U.S.C. 1125(a)(1).


⁵ See 15 U.S.C. 1117(a).

August 17, 2010
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You must understand, however, that the M22 brand is the intellectual property of our client and, as such, must be consistently and vigorously protected. Please contact me directly, or have your attorney contact me directly, at 231-932-0411 if you have any questions.

Very truly yours,

Traverse Legal, PLC

A handwritten signature in cursive script that reads "John Di Giacomo". The signature is written in black ink and is positioned above the printed name.

John Di Giacomo
john@traverselegal.com

Exhibit 37 to MDOT's MSJ

M22000715

810 Collageview Dr. 231 932 0411 100
Suite G-20 231 932 0636 FAX
Traverse City
Michigan 49684 traverselegal.com

traverselegal

ATTORNEYS & ADVISORS

September 17, 2008

VIA EMAIL

Michael Boks
michael@graar.org
mjboks@hotmail.com

Re: Unauthorized Use of M22, LLC's Federally Registered M22 Trademark

Dear Mr. Boks:

This law firm represents the interests of M22, LLC. The purpose of this letter is to notify you of your unauthorized use of our client's M22® trademark (the "Mark").

Our client offers men's, women's, and children's clothing apparel and accessories. Its products have been available in stores throughout Northern Michigan, including, for example, Harbor Wear in Suttons Bay, Harbor House in Leland, Totem Shop in Glen Arbor, Bay Wear in Frankfort, and Five Corners in Beulah since 2004. Since its opening in November 2007, its products have also been available at its M22 Store located at 121 East Front St., Suite 104, Traverse City, Michigan 49684 as well as online at www.m22online.com. See Exhibit A, Picture of Storefront and Inside.

Our client has spent considerable sums of money on advertising and promotion. See Exhibit B, Various Advertisements and Promotional Materials. Moreover, our client also offers M22® wine from wineries and stores throughout Northern Michigan and beyond. As a result, consumers recognize our client as the source of the products and services associated with its marks.

As part of its business, our client exclusively uses its trademarks as the distinctive identifiers of its products. In fact, our client is the owner of the following trademarks with the United States Patent and Trademark Office:

1. M 22 M22ONLINE.COM
Registration Number: 3348635
International Class: 025. Apparel specifically hats, t-shirts, long sleeve shirts, sweat shirts, pants, shorts, underwear, tank tops.

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First Use In Commerce Date: 20040101

Filing Date: August 29, 2006

2. M22

Registration Number: 3427900

International Class: 033. Wine.

First Use In Commerce Date: 20071000

Filing Date: June 4, 2007

Through our client's registration of the M22® trademark, continuous use of M22® as part of its products since 2004, Internet presence at the m22online.com domain, and operation under the M22, LLC trade name, the M22® mark has become the distinctive identifier and well-known source of its clothing apparel, accessories, and wine. Through its continuous and extensive efforts, our client has established tremendous value and goodwill in its Mark.

In order to protect the significant goodwill associated with its Mark, our client makes reasonable efforts to prevent the unauthorized use of its marks, terms, or names by others that cause confusion as to the source of products or services as well as to the sponsorship, affiliation, or endorsement by or with its product offerings. Our client even provides notice to consumers and competitors alike of its trademark rights, as seen in its Catalog. See Exhibit C, Printout of Catalog, including M-22 Policies & Information.

That said, it has come to our attention that you used our client's Mark without authorization at <http://www.cafepress.com/m22highway>. Our client has already contacted Cafepress to stop your offering for sale of infringing goods and to limit the consumer confusion that has likely occurred already. You appear to be offering identical goods using an identical mark. Our client, without waiving any of its rights or claims, is willing to give you the benefit of the doubt that your use of the Mark was due to your lack of understanding of trademark law, which is set forth for your benefit in more detail below.

LAW:

Trademark Infringement

A trademark protects a company's source, product, and corporate reputation. Another's use of someone's trademark violates Section 43(a) of the federal Trademark Act, which "prohibits any false designation of origin or false or misleading representation of fact that is likely to deceive as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person" *One World Botanicals Ltd. v. Gulf Coast Nutritionals, Inc.*, 987 F.Supp. 317, 331

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(D.N.J.1997). A finding of liability by a court of law will revolve around a determination of whether or not a "defendant's use of a disputed mark is likely to cause confusion among consumers regarding the origin of the goods offered by the parties." *Id.* "Nevertheless, the more similar the marks in terms of appearance, sound, and meaning, the greater the likelihood of confusion." *Brookfield Communs., Inc. v. West Coast Entertainment Corp.*, 174 F.3d 1036, 1054 (9th Cir. 1999). Of particular note in this matter when comparing the marks, significant similarity in appearance is all that is needed even if the consumer can differentiate between the two products. See *Malletier v. Burlington Coat Factory Warehouse Corp.*, 426 F.3d 532 (2nd Cir. 2005).

As such, you have no rights to M22®, and any subsequent use of any counterfeit mark would subject you to statutory damages of \$100,000. Furthermore, any continued use would be willful and further subject you to both legal and financial exposure, including disgorgement of any and all profits you have obtained, treble damages, and costs of any action we choose to pursue, which may include injunctive relief. Moreover, your familiarity with the Mark due to your apparent location in Grand Rapids, Michigan (upon information and belief) would only strengthen our claims of willful infringement.

REQUESTS:

Now that we have provided you with a better understanding of the law and your potential legal exposure should you continue to use M22®, or any colorable imitation of our client's mark, as a trademark, we are confident you will cease and desist all use. Should you decide to move forward with any use of M22®, or any colorable imitation of our client's marks, we demand you keep all evidence of use, all revenue attributable to the sale of the infringing items, and all associated expenses attributable to the sale of the infringing items. Failure to do so subjects you to claims of spoliation of evidence. If you have any questions, we encourage you to consult with an attorney

Ultimately, our client prefers to amicably resolve this with you directly. That said, your failure to reply to this letter will force our client to consider court intervention, which may include injunctive relief. As such, we would ask that you immediately:

1. Cease and desist any and all use of our client's M22® trademark, or any colorable imitation thereof;
2. Not produce, advertise, market, promote, sell, distribute or otherwise use our client's M22® trademark, or any colorable imitation thereof, in connection with any clothing or other products or services that would be likely to cause consumer confusion as to source or origin;
3. Not use M22® in such a way that would create a likelihood of consumer confusion, dilute the Mark, or otherwise damage the M22 Mark or M22, LLC; and

September 17, 2008

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4. Sign and return the below agreement.

Do not hesitate to contact us directly at 231-932-0411 or enrico@traverselegal.com. We hope to be able to avoid the consumer confusion that would undoubtedly occur should you proceed with any use of our client's Mark.

Sincerely,

TRAVERSE LEGAL, PLC



Enrico Schaefer
enrico@traverselegal.com

ES/bah
Enclosure

I, Michael Boks, hereby acknowledge and agree that I will adhere to the demands set forth in the attached letter, namely: (1) I will cease and desist any existing and planned and any and all other use of the M22 Mark, or any colorable imitation thereof; (2) I will not produce, advertise, market, promote, sell, distribute, or otherwise use the M22 Mark, or any colorable imitation thereof, in connection with any clothing or other products or services that would be likely to cause consumer confusion as to its source or origin; and (3) I will not use the M22 Mark, or any colorable imitation thereof, in such a way that would create a likelihood of consumer confusion, dilute the M22 Mark, or otherwise damage the M22 Mark or M22, LLC. I further acknowledge and agree that I have read and understand this agreement.

Date: 9-17-08

By: Michael Boks
Name Printed: Michael Boks



M22 Stickers

Show your Love for Michigan Highway 22

Buy Now

Choose your Sticker Size

These bumper stickers are made from extremely high quality outdoor vinyl and will last for many years on your car.



Large 4" Sticker

1 Sticker for \$2

[Buy Now](#)

5 Stickers for \$5

[Buy Now](#)



Mini 2" Sticker

1 Sticker for \$1

[Buy Now](#)

5 Stickers for \$3

[Buy Now](#)

FREE SHIPPING!

About the design

The Michigan Highway 22 Roadsign and all other Michigan Highway roadsigns are Public Domain. Please feel free to download this design and print and share as many copies as you want with friends and family.

According to Michigan Attorney General Bill Schuette:

(<http://www.ag.state.mi.us/opinion/datafiles/2010s/op10344.htm>) "No entity can lawfully claim exclusive control over use of the State's highway route marker design because the design is in the public domain and is otherwise not subject to protection under trademark law."

"Because the State of Michigan, the creator of the design, placed the Michigan highway route marker design in the public domain, no entity can lawfully obtain intellectual property protection of the design under trademark

or copyright law"

"Any other individual or company is also free to use the design to promote commercial goods and services."

This domain name is for sale
Email us (<mailto:mail@m22sticker.com>) for details

Exhibit 38 to MDOT's MSJ

TRAVERSE^{legal}.

ATTORNEYS & ADVISORS

May 3, 2010

VIA CERTIFIED MAIL and EMAIL (director@benzie.org)

Benzie County Visitors Bureau
PO Box 204
Benzonia, MI 49616

Re: Unauthorized Use of M22 (Serial No. 78963038)

Dear Sir/Madam :

This firm represents M22, LLC, which is the owner of the distinctive trademark M22 (the "Mark") under the following registration information:

Serial No.: 78963038
International Class: 025
For Apparel Specifically Hats, T-Shirts, Long Sleeve Shirts, Sweat Shirts, Pants, Shorts, Underwear, Tank Tops, in Class 25 (U.S. Cls. 22 and 39)
First Use Date: 01-01-2004
First Use in Commerce Date: 01/01/2004

Our client's use of the M22 trademark ("Mark") dates back to at least as early as January 2004.

Ever since, our client has used its Mark to identify and distinguish the source of its merchandise, apparel, coffee, wine and other products and services to the local and tourist communities. The Mark has become well-known and famous throughout the region, and through its efforts, our client has established tremendous value and goodwill associated with the Mark. In order to protect the significant goodwill associated with the Mark, our client must take efforts to prevent the use of trademarks, service marks, terms, or names by others that cause confusion as to the source of products or services as well as to the sponsorship, affiliation, or endorsement by or with our client's mixed use community.

It has come to our attention that you have recently attempted to register a nearly identical Mark with the United States Patent and Trademark Office. While our initial thought from reviewing your website is that you did not appear to be using the Mark as a "trademark", your direct attack on my client's trademark registration cannot be ignored. While the Trademark Office has shut you down based on what should have been obvious to you in the first place, that there would be a strong likelihood of confusion between your proposed

May 3, 2010

Page 2 of 4

mark and our prior registration, we are now forced to do whatever is necessary in order to protect our client's substantial investment in this brand. We have a hard time believing that you did not specifically intend to leverage the tremendous success my client's Mark has had in the marketplace and essentially divert business otherwise created by or directed to my client.

THE LAW:

Section 43(a) of the federal Trademark Act, which "prohibits any false designation of original or false or misleading representation of fact that is likely to deceive as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person" *One World Botanicals Ltd. v. Gulf Coast Nutritionals, Inc.*, 987 F.Supp. 317, 331 (D.N.J.1997); *Opticians Ass'n. of America v. Independent Opticians of America*, 920 F.2d 187, 192 (3rd Cir. 1990). A finding of liability by a court of law will revolve around a determination of whether or not a "defendant's use of a disputed mark is likely to cause confusion among consumers regarding the origin of the goods offered by the parties." *Id.*

Use of another's trademark constitutes infringement even when some dissimilarity in the form of the trademark exists. See *David Sherman Corp. v. Heublein, Inc.*, 340 F.2d 377, 380 (8th Cir. 1965); see also *Calamari Fisheries, Inc. v. Village Catch, Inc.*, 8 USPQ.2d 1953 (D.C. Mass. 1988) (holding that THE VILLAGE CATCH for plaintiff's restaurants so resembles defendant's use of DAILY CATCH in the same city so as to not allow the use of CATCH in 2 or 3 word restaurant titles). As long as there is a likelihood of confusion, a plaintiff will prevail. See *River Hotel Co. v. La Mansion on Bay, Inc.*, 228 USPQ 622 (N.D. Fla. 1985) (holding that another's use of the identical combination of words, La MANSION, for competing services involving hotels and condominiums is likely to cause confusion); see also *Blumenfeld Dev. Corp. v. Carnival Cruise Lines, Inc.*, 4 USPQ.2d 1577 (E.D. Pa. 1987) (holding that CARNIVAL CLUB for hotel and casino is likely to cause confusion with established use of CARNIVAL for cruise line).

In addition, a mark need not be registered in order to be entitled to find one who engages in trademark infringement or unfair competition liable. See *Deyerle v. Wright Mfg. Co.*, 496 F.2d 45 (6th Cir. 1974) (holding that Section 43(a) of the Lanham Act may be violated even though the injured party did not have a federally registered trademark); see also *New West Corp. v. NYM Co. of California, Inc.*, 595 F.2d 1194 (9th Cir. 1979) (holding that unfair competition under the Lanham Act for using trademark and trade names applies equally to registered and unregistered marks). Therefore, with regard to other uses of the mark which have not been registered, our client still maintained prior common law trademark rights.

May 3, 2010
Page 3 of 4

YOUR UNAUTHORIZED USE SUBJECTS YOU TO LIABILITY:

You were undoubtedly aware of our client's use of "M22" as its Mark when you copied their business model and Mark. You are purposefully incorporating our client's Mark in the same tourist niche market, geographical region, and consumer base targeted by our client.

The fact that you have copied the substantial and distinctive portion of our client's Mark constitutes infringement even when some dissimilarity in the form of the trademark exists.

Nevertheless, if forced to seek court intervention to prevent your use of our client's Mark, we are extremely confident that all of the facts and law set forth above will render a decision enjoining your continued use of "M22." See *Bishops Bay Founders Group, Inc. v. Bishops Bay Apts., LLC*, 74 USPQ.2d 1877 (W.D. Wis. 2003) (granting plaintiff's motion for preliminary injunction in its trademark infringement action because plaintiff showed a likelihood of success on the merits of its Lanham Act claim since the evidence demonstrated that although its mark was connected to a geographic description, the mark had achieved secondary meaning and defendant's use of its mark was likely to diminish distinctive qualities of the mark, which was associated with its luxury community, because defendant's apartment complex was not on part with plaintiff's development).

A. Statutory Damages for Trademark Infringement

Under the Lanham Act, a court may award a minimum of \$ 500.00, and a maximum of \$ 100,000.00 "per counterfeit mark per type of goods or services sold, offered for sale, or distributed, as the court considers just . . ." 15 U.S.C. § 1117(c)(1). If the court finds that the use of the counterfeit mark was wilful, the maximum limit of statutory damages is raised to \$ 1,000,000.00. 15 U.S.C. § 1117(c)(2). An infringement is wilful, and thus triggers the enhanced statutory damages limit, if the defendant "had knowledge that its actions constitute an infringement." *N.A.S. Import, Corp. v. Chenson Enters., Inc.*, 968 F.2d 250, 252 (2nd Cir. 1992). [**28] Actual knowledge is not required, and constructive knowledge will suffice to trigger the enhancement. Thus, knowledge need not be proven directly, but may be inferred from the defendant's conduct. A defendant's continued infringement after notice of his wrongdoing is probative evidence of willfulness. *Int'l Korwin Corp. v. Kowalczyk*, 855 F.2d 375, 380-81 (7th Cir. 1988) (willfulness may be demonstrated where the infringer is provided notice of its infringing conduct). Paragraphs 10, 12-31, and 47 of the Complaint, together with Paragraph 3 and Exhibits C-E of the Zumwalt Declaration, assert that Defendants have persisted in their unlawful and infringing use of Ford's trademarks, despite their receipt of actual notice that their actions were unauthorized. Plaintiff has cited authority for the proposition that a successful plaintiff in a trademark infringement case is entitled to recover enhanced statutory damages even where its actual damages are nominal or non-existent. *Peer Int'l*, 909 F.2d at 1336-37; *Superior Form Builders, Inc. v. Dan Chase*

May 3, 2010
Page 4 of 4

Taxidermy Supply Co., Inc., 74 F.3d 488, 496-98 (4th Cir. 1996). Ford has also cited cases [**29] which have recognized the deterrent effect of statutory damages as a proper objective. Fitzgerald Publ'g Co. v. Baylor Publ'g Co., 807 F.2d 1110, 1117 (2nd Cir. 1986). Ford Motor Co. v. Cross, 441 F. Supp. 2d 837, 852 (D. Mich. 2006)

DEMANDS:

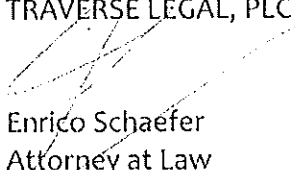
Our client is prepared to take all necessary actions to protect its valuable trademark rights in its Mark. Your use of our client's mark subjects you to treble damages, costs, attorney's fees, and a potential \$100,000 penalty for your willful and knowing infringement, as provided under the Lanham Act.

No later than May 10, 2010, we demand that you:

1. Cease and desist use of the "M22" logo as part of your advertising campaign.
2. Contact me, or have your attorney contact me, to discuss a release of liability for reasonable compensation.
3. Initiate corrective advertising; specifically stating in all materials, marketing or otherwise, that all material associated with your company is in no way connected with our client.
4. Agree in writing that you will not infringe on the trademark of our client again.

If forced to litigation, we will pursue all monetary penalties available under law. However, in an effort to amicably resolve this matter, we would prefer to avoid litigation. As such, I look forward to speaking with you.

Sincerely,
TRAVERSE LEGAL, PLC



Enrico Schaefer
Attorney at Law
enrico@traverselegal.com

Enclosure

Exhibit 39 to MDOT's MSJ

M22000070

TRAVERSE legal

ATTORNEYS & ADVISORS

810 Cottageview Dr. 231 932 0411 TEL
Suite G-20 231 932 0636 FAX
Traverse City
Michigan 49684 traverselegal.com

July 13, 2010

Nicholas DeGrazia
Sandy White
MI Thumbprint
3650 Shorewood Drive
North Lakeport, MI 48059
Phone: (810) 327-6569
Email: thumb1@mithumbprint.com

RE: Unlawful use of mark confusingly similar to M22

Dear Sir or Madam:

We represent the interests of M22, LLC, a corporation organized under the laws of the State of Michigan. M22, LLC is a retailer of clothing, sporting goods, and novelty items, which it sells through its M22 retail brick and mortar and online stores. Local kiteboarding icons Matt and Keegan Myers, the founders of M22, LLC, created the M22 brand to pay tribute to the northern Michigan road of the same name and the natural beauty of its surrounding areas.

M22, LLC has used the M22 mark in association with its line of products since November 2007. The M22 mark has been extensively and exclusively used and advertised as a designator of source for our client's products, and the M22 mark has been displayed nationally, such as in the photograph attached as Exhibit A, which was widely distributed across the United States on the cover of Traverse Magazine. Further, our client has displayed the M22 mark in association with the advertisement and sale of products through its website located at <http://m22online.com>. As such, our client has obtained common law trademark rights in the M22 mark.¹

It has recently come to our attention that you have adopted and are currently using a mark that is confusingly similar to our client's M22 mark. Specifically, you are currently using M25 in association with your sale of t-shirts, as evidenced by the attached Exhibit B. This letter serves as your notice that you have infringed upon our client's trademark rights. As such, you face liability for trademark infringement.

¹ See *Trade-Mark Cases*, 100 U.S. 82, 94 (U.S. 1879) (holding that common law trademark rights are created through use in commerce).

July 13, 2010
Page 2 of 2

Section 45 of the Lanham Act states that a mark is used in commerce when it is "is placed in any manner on the goods or their containers or the displays associated therewith..."² Trademark ownership, in turn, is determined through the priority of use of a mark in commerce in association with goods or services.³ Our client has used the M22 mark in association with its furniture since November 2007. As such, our client gained common law rights in the M22 mark prior to your use of M25 in association with t-shirts. Furthermore, our client has registered the M22 mark, as evidenced by the certificate attached as Exhibit C. Such a certificate "shall be prima facie evidence of the validity of the registered mark and of the registration of the mark, of the owner's ownership of the mark, and of the owner's exclusive right to use the registered mark in commerce on or in connection with the goods or services specified in the certificate..."⁴

One may be held liable for trademark infringement where one uses, without the consent of the trademark holder, a mark that "is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person."⁵ Where trademark infringement is established, the mark owner may recover the defendant's profits, as well as the mark owner's actual damages and costs of the action.⁶ Further, the owner of a registered mark may recover up to \$2,000,000 in statutory damages per mark infringed.⁷

Your adoption and use of a mark that is likely to cause confusion, to cause mistake, or to deceive as to the affiliation of M22, LLC with MI Thumbprint, namely, your use of M25, has subjected you to liability for trademark infringement. As such, you may be held liable for significant monetary damages, costs, and attorneys fees.

In light of the foregoing, we hereby demand that you comply with the following by Monday, July 19, 2010:

1. Cease and desist any and all use of our client's M22 mark, or any colorable imitation thereof, that is likely to cause consumer confusion;
2. Provide an accounting of all profits made from the use of M25 to sell t-shirts;
3. Destroy any and all marketing materials, catalogs, labels, or the like that use M25 to indicate the source of your t-shirts and provide evidence and confirmation of same;
4. Provide confirmation, in writing, of compliance with the above demands.

² See 15 U.S.C. 1127.

³ See *Western Stove Co. v. Geo. D. Roper Corp.*, 82 F. Supp. 206, 217 (D. Cal. 1949).

⁴ See 15 U.S.C. 1057(b).

⁵ See 15 U.S.C. 1125(a)(1).

⁶ See 15 U.S.C. 1117(a).

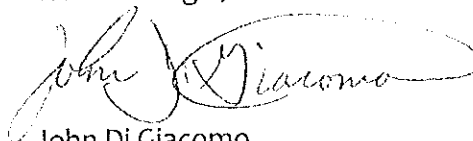
⁷ See 15 U.S.C. 1117(c)(2).

July 13, 2010
Page 3 of 3

Your failure to comply with these requests by the date mentioned above may subject you to a lawsuit for trademark infringement. Our client reserves all rights under the law, including the right to initiate a trademark infringement lawsuit at any time and without notice to you. Please contact me directly, or have your attorney contact me directly, at 231-932-0411 if you have any questions.

Very truly yours,

Traverse Legal, PLC

A handwritten signature in black ink, appearing to read "John Di Giacomo". The signature is fluid and cursive, with a large loop at the end.

John Di Giacomo
john@traverselegal.com

EXHIBIT A

M2200074

NORTHERN MICHIGAN'S MAGAZINE

Traverse

WARM WATER BIG SUN

Out & up WITH THE
▶ Kiteboarding
Broneah brothers

**Paddle the Beaver
Islands' Bizarre
and Mystic Past**

LIGHT THE BONFIRE!

*The North's great dogs,
mustards and brews*

plus

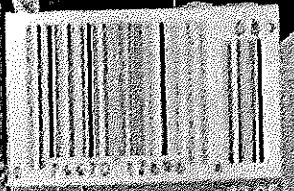
**THE GREAT LAKES'
DISAPPEARING
SHRIMP** p.50

**RECIPE FOR DRUNK
MUSKMELON** p.123

**ANTIQUING
WEEKENDS** p.37

HOW TO SNORKEL A RIVER

PAGE 66



AUGUST 2010 \$3.95

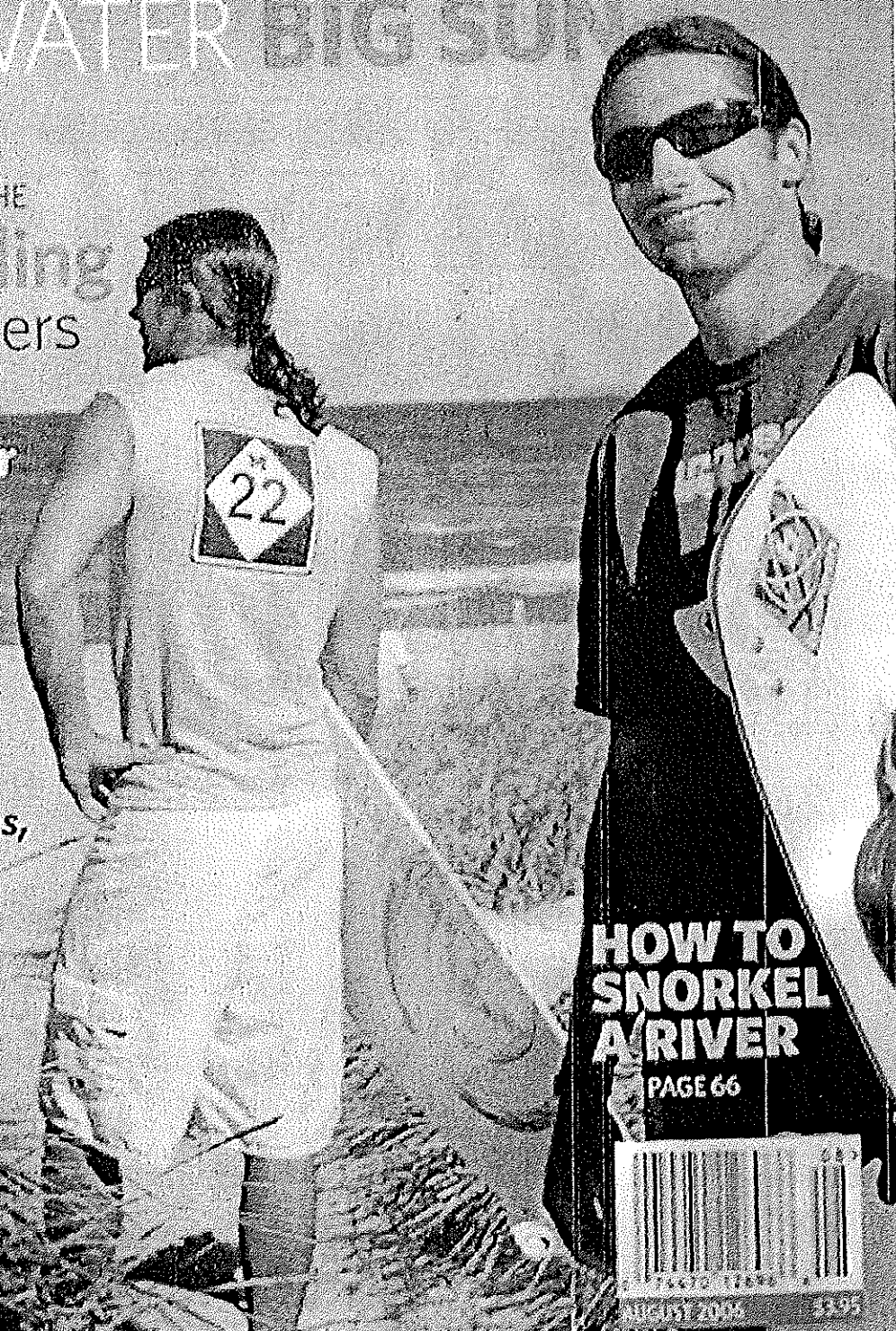
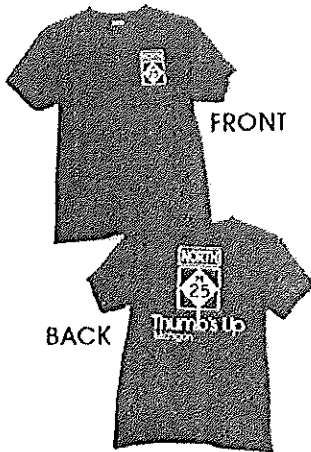


EXHIBIT B

HOME SHOP ONLINE RETAIL LOCATIONS WHOLESALE GET A FREE SHIRT! GALLERY ABOUT US CONTACT US LINKS



[View Full-Size Image](#)

M-25 T-Shirt

Price: \$22.00

[Ask a question about this product](#)

Okay, well, right now all we have is this really cool T-shirt, but we'll be happy to send you THUMB, or even just one. A shirt is \$22 plus 6 percent MI tax. Shipping is free. 'Cuz why not?

MI Thumbprint shirts are printed in the USA with eco-friendly water-based ink, both soft to the touch and durable in the wash.

Proceeds of the sale of this shirt are being donated to the SC4 Foundation, earmarked for scholarships at St. Clair County Community College in Port Huron.

Are these T-shirts not the perfect gift for anyone who lives, works or vacations along M-25 - In or near Michigan burgs like Port Huron, Lakeport, Lexington, Port Sanilac, Applegate, Forester, Richmondville, Forestville, White Rock, Harbor Beach, Port Hope, Grindstone City, Port Austin, Pointe aux Barques, Caseville, Bay Port, Sebewaing, Unionville, Wisner, Quanicasssee - and all the way into Bay City?

Bumper decals coming soon!

A small discreet statement of Thumb pride for your bumper, boogie board or book bag.

Please email if you want to be notified when they're available.

Availability

Usually ships in:

24 h
* * * * *

Size: <input type="text" value="Small"/>
Quantity: <input type="text" value="1"/> <input type="button" value="Add to Cart"/>

USER MENUS

Remember Me

[Forgot your password?](#)

[Forgot your username?](#)

[Create an account](#)

[Show Cart](#)

Your Cart is currently empty.

EXHIBIT C



United States Patent and Trademark Office

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Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Tue Jul 13 03:56:20 EDT 2010

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[Logout](#) Please logout when you are done to release system resources allocated for you.

[Start](#) List At: OR [Jump](#) to record: **Record 3 out of 4**

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[ASSIGN Status](#)
[TDR](#)
[TTAB SIMILAR](#)
(Use the "Back" button of the Internet Browser to return to TESS)



Word Mark M 22 M22ONLINE.COM

Goods and Services IC 025. US 022 039. G & S: Apparel specifically hats, t-shirts, long sleeve shirts, sweat shirts, pants, shorts, underwear, tank tops. FIRST USE: 20040101. FIRST USE IN COMMERCE: 20040101

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 26.07.01 - Diamonds with plain multiple line border; Diamonds with plain single line border
26.09.20 - Squares inside one another
26.09.21 - Squares that are completely or partially shaded

Trademark Search Facility Classification Code ART-07.13 Billboards, Signs
LETS-1 M A single letter, multiples of a single letter or in combination with a design
NUM-26-UP 22 Other Numerals - 26 and Up
SHAPES-DIAMONDS Diamond shaped designs including shaded or more than one diamond
SHAPES-GEOMETRIC Geometric figures and solids including squares, rectangles, quadrilaterals and polygons

Serial Number 78963038

Filing Date August 29, 2006

Current Filing Basis 1A

Original Filing Basis 1A
Published for Opposition September 18, 2007
Registration Number 3348635
Registration Date December 4, 2007
Owner (REGISTRANT) Broneah, Inc. CORPORATION MICHIGAN 121 E. Front St. Suite 103 Traverse City MICHIGAN 49684
Attorney of Record Enrico Schaefer
Description of Mark Color is not claimed as a feature of the mark. The mark consists of an unmounted square street sign with a centered diamond containing M 22 and with M22online.com in the bottom border of the square.
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE LIST](#) [SEARCH LOG](#) [TOP](#) [HELP](#) [PREV LIST](#) [CURR LIST](#)
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Exhibit 40 to MDOT's MSJ



January 26, 2012

Via Email and Fax

CafePress.com
Attn: Lindsay Moore
Intellectual Property Rights Agent
1850 Gateway Drive
Suite 300
San Mateo, CA 94404

RE: Copyright Claim Concerning User UP_North_Michigan

Dear Sir or Madam:

We represent the interests of Broneah, Inc., which is a corporation organized under the laws of the State of Michigan with its principal place of business in Traverse City, MI ("Broneah"). Broneah is the owner of all copyright rights in and to the work of creative authorship embodied in the M22 logo, which may be viewed at <http://www.m22online.com>. Additionally, Broneah is the owner of the M22 family of marks, which include THE M-22 CHALLENGE (Serial No. 85089688), M22 (Serial No. 85041051), M22 (Serial No. 85040494), M22ONLINE.COM (Serial No. 78963038), and M22 (Serial No. 77197208) marks ("M22 Family of Marks").

It has recently come to our attention that a party using your service has infringed upon our client's exclusive copyright rights, which are guaranteed by 17 U.S.C. § 106. Specifically, the user UP_North_Michigan is currently offering for sale goods that are substantially similar to our client's copyrighted works and are offered in direct competition with our clients t-shirt goods. Additionally, this user's use of M26 as a mark is likely to cause confusion with our client's registered M22 Family of Marks, which constitutes trademark infringement in violation of 15 U.S.C. § 1117 and 1125. These actions have been taken without our client's authorization, license, or acquiescence. The goods in question may be accessed at the following link http://www.cafepress.com/sk/up_north_michigan.

This letter serves as your notice that we have a good faith belief that your user has infringed upon our client's copyright and trademark rights misappropriating its creative work and by reproducing, distributing, and publicly displaying that work through your website. Consequently, we hereby demand that you expeditiously remove the identified work

January 26, 2012

Page 2


pursuant to your statutory safe harbor duties under 17 U.S.C. § 512 or face liability for direct and contributory copyright infringement, as well as contributory and vicarious trademark infringement. We further demand that you, now and in the future, refrain from distributing or displaying the copyrighted and trademarked works of our client through your services.

We hereby affirm, under penalty of perjury, that the information contained in this notice is accurate and that we are authorized to act on behalf of our client, the copyright holder. Understand that we will not hesitate to take further action for your failure to remove this copyrighted work from your servers. Our client reserves all of its rights under the law, including the right to initiate a copyright and trademark infringement lawsuit at any time and without notice.

Should you have any questions, do not hesitate to contact me directly at 231-932-0411.

Very truly yours,

TRAVERSE LEGAL, PLC



John Di Giacomo

john@traverselegal.com

Exhibit 41 to MDOT's MSJ

M22000218

TRAVERSE legal

ATTORNEYS & ADVISORS

810 Cottageview Dr. 231 932 0411 TEL
Suite G-20 231 932 0636 FAX
Traverse City
Michigan 49684 traverselegal.com

August 9, 2010

North Coast Image Wear
C/O Tracy Piehl
610 West Sheridan, Suite 2
Petoskey, MI 49770
Phone: (231) 347-3016
Fax: (231) 348-2015
tracy@ncimagewear.com

RE: Infringement of M22 Trademark

Dear Ms. Piehl:

It has recently come to our attention that you are printing several products for The M119 Project, which distributes products containing a mark that infringes upon our client's registered M22 family of marks. This letter serves as your notice that any continued printing of products containing the M119 mark will subject you to significant liability for contributory trademark infringement and vicarious liability under federal law.

Our client is the holder of registered trademarks for M22 in a variety of International Classes and for use in association with several different goods or services. Specifically, our client holds a registered trademark for M22 for use in association with wine (Registration No. 3427900) and M22 for use in association with apparel, specifically, hats, t-shirts, long sleeve shirts, sweat shirts, pants, shorts, underwear, and tank tops (Registration No. 3348635). Our client also has two applications currently pending registration in front of the US Patent and Trademark Office for M22 for use in association with retail shops featuring clothing, sporting goods, and novelty items (Serial Nos. 85040494 and 85041051), as well as an application for M22 Challenge for use in association with entertainment in the nature of competitions in the field of athletics (Serial No. 85089688). Evidence of these trademarks are attached to this letter as Exhibit A. Our client also holds common law rights in the M22 family of marks by virtue of its longstanding use of those marks in commerce.

August 9, 2010

Page 2 of 2

Consequently, our client's M22 mark has become well and favorably known across the world as an indicator of quality goods and services.

Understand that the test for trademark infringement applied by a court asks whether the opposing party's mark is "likely to cause confusion, or to cause mistake, or to deceive." 15 U.S.C. § 1114. In examining whether a mark is likely to cause confusion, courts apply eight non-exclusive factors: (1) the strength of the plaintiff's mark; (2) the relatedness of the goods; (3) the similarities of the marks; (4) evidence of actual confusion; (5) the marketing channels used; (6) the likely degree of purchaser care; (7) the defendant's intent in selecting the mark; and (8) the likelihood of expansion of the product lines. See *Frisch's Restaurants, Inc. v. Elby's Big Boy, Inc.* 670 F.2d 642, 648 (6th Cir. 1982). When the likelihood of confusion test "is closely balanced, the question should be resolved in favor of the senior user." See 3 *McCarthy* § 23:64; see also *Dallas Cowboys Football Club, Ltd. v. Am.'s Team Props.*, 616 F. Supp. 2d 622, 637 (N.D. Tex. 2009).

We have no doubt that a court would find that the M119 Project's use of the M119 mark is confusingly similar to our client's M22 mark. Specifically, the M119 Project is currently using an identical logo, save for a change in the number displayed on the logo from 22 to 119, to sell goods in direct competition with our client's goods. This has subjected them to up to \$2,000,000 in statutory damages under the Lanham Act. 15 U.S.C. § 1117(c)(2). Further, the M119 Project can also be held liable for our client's actual costs, damages, and attorneys fees under 15 U.S.C. § 1117(a).

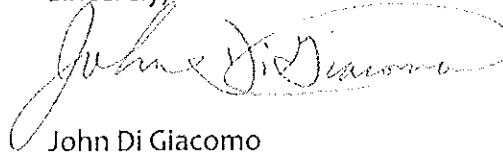
Also note that your printing of products for the M119 Project has subjected you to liability for the same amount, up to \$2,000,000 in statutory damages, for your contributory and vicarious infringement. Contributory infringement occurs where a third party either (a) induces a third party to infringe on a mark or (b) supplies a product to a third party with actual or constructive knowledge that the product is being used to infringe upon a mark. See *Inwood Lab, Inc. v. Ives Lab., Inc.*, 456 U.S. 844, 853-54 (1982). Similarly, vicarious liability for trademark infringement occurs where a party (1) has the ability to stop or limit the direct infringement of a mark; (2) directly profits from the direct infringement of another's mark; and (3) declines to exercise the right to stop or limit the infringement. See *Bridgeport Music, Inc. v. Rhyme Syndicate Music*, 376 F.3d 615, 621 (6th Cir. 2004). It is clear that, should you decide to continue printing these products, you will be subjected to liability for both contributory and vicarious trademark infringement.

I hope that the explanation of the law contained within this letter resolves any questions that you may have as to our client's trademark rights and that you will cease printing the M119 products without the need for further legal action. With that said, our client must reserve all rights, including the right to bring a trademark infringement lawsuit for

August 9, 2010
Page 3 of 3

contributory infringement should you continue printing these items. If you have any questions, please do not hesitate to contact me directly at 231-932-0411.

Sincerely,

A handwritten signature in cursive script that reads "John Di Giacomo". The signature is written in black ink and is positioned above the typed name.

John Di Giacomo
john@traverselegal.com

M22000180

TRAVERSE legal

ATTORNEYS & ADVISORS

810 Cottageview Dr. 231 932 0411 TEL
Suite G-20 231 932 0636 FAX
Traverse City
Michigan 49684 traverselegal.com

August 4, 2011

Douglas S. Bishop, Esq.
Bishop & Heintz P.C.
440 West Front Street
P.O. Box 707
Traverse City, MI 49685
Email: doug1@bishopheintz.com

Re: Broneah, Inc. / M22 trademark

Dear Doug,

You indicated in your letter that federal regulations and enabling legislation permit anyone whose business is located on a state highway to use an exact duplicate of the sign for that highway. It is true that a business is permitted to use a highway sign in this manner. Such use of a trademark, however, is geographically descriptive, and is not protected under the Lanham Act. See *Burke-Parsons-Bowlby Corp. v. Appalachian Log Homes, Inc.*, 871 F.2d 590, 594 (6th Cir. 1989). I appreciate your concession that the M-119 sign can and should be used in a geographically descriptive manner.

While I agree with you that the M-119 mark should only be used in a geographically descriptive way, your client has not limited its use to mere geographic description, and has instead used the M-119 mark to indicate the source of its apparel, wine, and other products.

It is clear that your client has copied my client's business model, in a blatant attempt to trade off of the popularity and good will of the M-22 brand. You are already well aware that there are numerous accounts of actual confusion in the marketplace by loyal M-22 customers, who mistakenly believe that M-119 is affiliated with or shares the same origin as M-22 goods. As evidenced by your client's obvious copying and reckless disregard for deceiving consumers about the true source of M-119 goods, it is clear that your client is engaged in unfair competition and trademark infringement.

In our last meeting, you presented an administrative traffic manual as your authority for trademark law. The authority that governs here, and which will govern in any court, is the federal trademark statute, the Lanham Act, which was enacted by Congress and signed by the President of the United States. If you can provide any federal statutory authority or case law that indicates that a highway sign cannot be afforded trademark protection, I would like to see it.

Sincerely,


John Di Giacomo
john@traverselegal.com

M22000181

TRAVERSE **legal**

ATTORNEYS & ADVISORS

810 Cottageview Dr. 231 932 0411 ext.
Suite G-20 231 932 0636 fax
Traverse City
Michigan 49684 traverselegal.com

August 6, 2010

Lee Lutes
360 McKinley Rd.
Traverse City, MI 49686
llutes@blackstarfarms.com

RE: Infringement of M22 Trademark

Dear Mr. Lutes:

It has recently come to our attention that you are printing wine labels for The M119 Project, which distributes products containing a mark that infringes upon our client's registered M22 family of marks. This letter serves as your notice that any continued printing of labels containing this mark will subject you to significant liability for contributory trademark infringement and vicarious liability under federal law.

Our client is the holder of registered trademarks for M22 in a variety of International Classes and for use in association with several different goods or services. Specifically, our client holds a registered trademark for M22 for use in association with wine (Registration No. 3427900) and M22 for use in association with apparel, specifically, hats, t-shirts, long sleeve shirts, sweat shirts, pants, shorts, underwear, and tank tops (Registration No. 3348635). Our client also has two applications currently pending registration in front of the US Patent and Trademark Office for M22 for use in association with retail shops featuring clothing, sporting goods, and novelty items (Serial Nos. 85040494 and 85041051), as well as an application for M22 Challenge for use in association with entertainment in the nature of competitions in the field of athletics (Serial No. 85089688). Evidence of these trademarks are attached to this letter as Exhibit A. Our client also holds common law rights in the M22 family of marks by virtue of its longstanding use of those marks in commerce. Consequently, our client's M22 mark has become well and favorably known across the world as an indicator of quality goods and services.

Understand that the test for trademark infringement applied by a court asks whether the opposing party's mark is "likely to cause confusion, or to cause mistake, or to deceive." 15 U.S.C. § 1114. In examining whether a mark is likely to cause confusion, courts apply eight non-exclusive factors: (1) the strength of the plaintiff's mark; (2) the relatedness of the goods; (3) the similarities of the marks; (4) evidence of actual confusion; (5) the marketing channels used; (6) the likely degree of purchaser care; (7) the defendant's intent in selecting

August 6, 2010
Page 2 of 3

the mark; and (8) the likelihood of expansion of the product lines. See *Frisch's Restaurants, Inc. v. Elby's Big Boy, Inc.* 670 F.2d 642, 648 (6th Cir. 1982). When the likelihood of confusion test "is closely balanced, the question should be resolved in favor of the senior user." See 3 *McCarthy* § 23:64; see also *Dallas Cowboys Football Club, Ltd. v. Am.'s Team Props.*, 616 F. Supp. 2d 622, 637 (N.D. Tex. 2009).

We have no doubt that a court would find that the M119 Project's use of the M119 mark is confusingly similar to our client's M22 mark. Specifically, the M119 Project is currently using an identical logo, save for a change in the number displayed on the logo from 22 to 119, to sell goods in direct competition with our client's goods. This has subjected them to up to \$2,000,000 in statutory damages under the Lanham Act. 15 U.S.C. § 1117(c)(2). Further, the M119 Project can also be held liable for our client's actual costs, damages, and attorneys fees under 15 U.S.C. § 1117(a).

Also note that your printing of labels for the M119 Project has subjected you to liability for the same amount, up to \$2,000,000 in statutory damages, for your contributory and vicarious infringement. Contributory infringement occurs where a third party either (a) induces a third party to infringe on a mark or (b) supplies a product to a third party with actual or constructive knowledge that the product is being used to infringe upon a mark. See *Inwood Lab, Inc. v. Ives Lab., Inc.*, 456 U.S. 844, 853-54 (1982). Similarly, vicarious liability for trademark infringement occurs where a party (1) has the ability to stop or limit the direct infringement of a mark; (2) directly profits from the direct infringement of another's mark; and (3) declines to exercise the right to stop or limit the infringement. See *Bridgeport Music, Inc. v. Rhyme Syndicate Music*, 376 F.3d 615, 621 (6th Cir. 2004). It is clear that, should you decide to continue printing these labels, you will be subjected to liability for both contributory and vicarious trademark infringement.

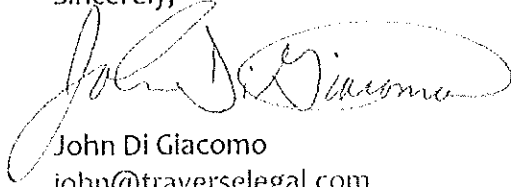
Our client indicated that you were concerned that its mark has been involved in a dispute with another entity in Mackinac City. Rest assured that this issue was settled and that our client continues to have full rights in and to its M22 family of marks. While I am hesitant to provide you with confidential information concerning our client, I have attached the settlement agreement in that matter to this letter as Exhibit B in an attempt to alleviate your concerns. Understand that this document is provided to you for the limited purpose of making you aware of our client's rights and cannot be redistributed without legal consequences.

I hope that the explanation of the law contained within this letter resolves your concerns and that you will cease printing the M119 labels without further actions. Our client is very happy with your services and looks forward to a long and beneficial relationship with your company. With that said, our client must reserve all rights, including the right to bring a trademark infringement lawsuit for contributory infringement should you continue printing

August 6, 2010
Page 3 of 3

these bottles. If you have any questions, please do not hesitate to contact me directly at 231-932-0411.

Sincerely,

A handwritten signature in black ink, appearing to read "John Di Giacomo". The signature is fluid and cursive, with a large loop at the end.

John Di Giacomo
john@traverselegal.com



BISHOP & HEINTZ P.C.
ATTORNEYS ~ COUNSELORS

DOUGLAS S. BISHOP*
PATRICK E. HEINTZ
DAVID A. CVENGROS
STEVEN R. FOX
*registered patent attorney

MEAGAN RAFFERTY BELDEN+
MATTHEW L. CLASSENS

JEROME COLLIGAN - of counsel
+also admitted in Illinois

August 17, 2011

John Di Giacomo, Esq.
Traverse Legal
810 Cottageview Drive, Suite G-20
Traverse City, MI 49684

Also sent via email to john@traverselegal.com

Re: Broneah, Inc./M22 Trademark
Your Letter with reference to Broneah, Inc. dated August 4, 2011

Dear John:

I believe you are missing a number of issues. First and foremost, since our client has been using replicas of the state highway sign for M-119 on goods sold from her retail location for a substantial number of years, before your client even existed, your suggestion that somehow your client's "business model" has been copied or infringed is pretty far off the mark.

Further, irrespective of whether your client is properly using the M-22 road sign as a trademark (I submit that it is not, but it's not a dispositive issue), any person may utilize an exact duplicate of a public road sign in any manner that they wish.

Finally, all other argument aside, I cannot agree with the suggestion that M-119 is confusingly similar, in any way, to M-22, as that test is applied.

This letter is without prejudice to our client's rights, all of which are expressly reserved. As with my prior correspondence, it further constitutes a settlement communication and may not be used for any other purpose without the prior written consent of Bishop & Heintz, P.C. and our client.

Sincerely,

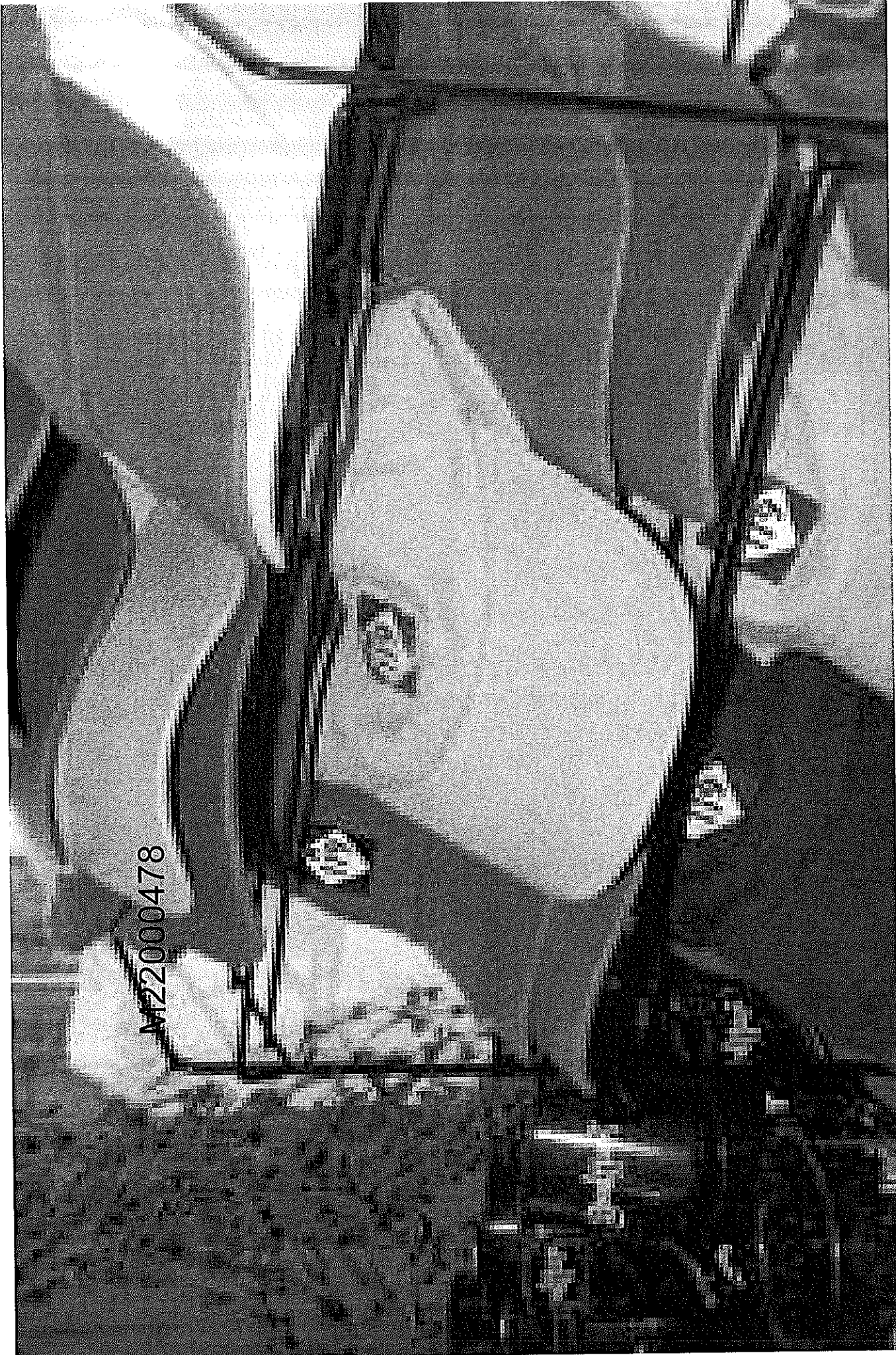


Douglas S. Bishop

DSB/tms

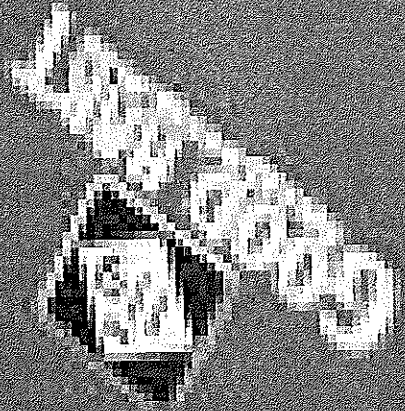
cc: Ms. Carolyn Sutherland

M22000478





M22000479



The Tunnel of Trees

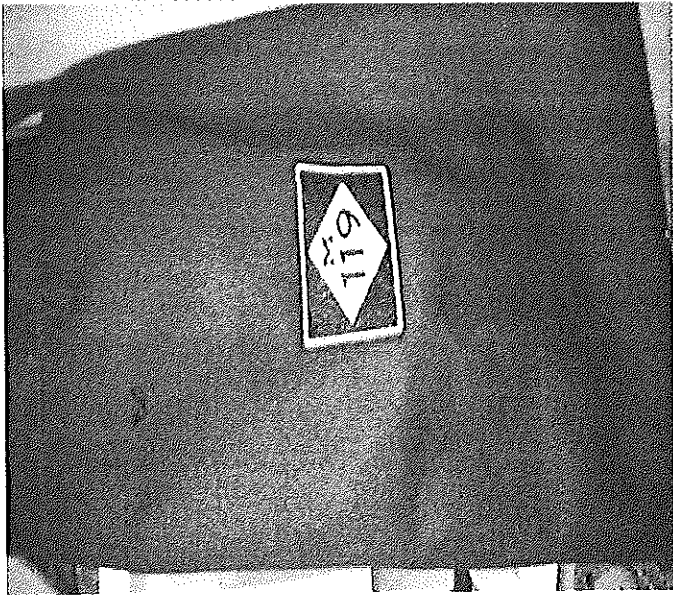
M22000563



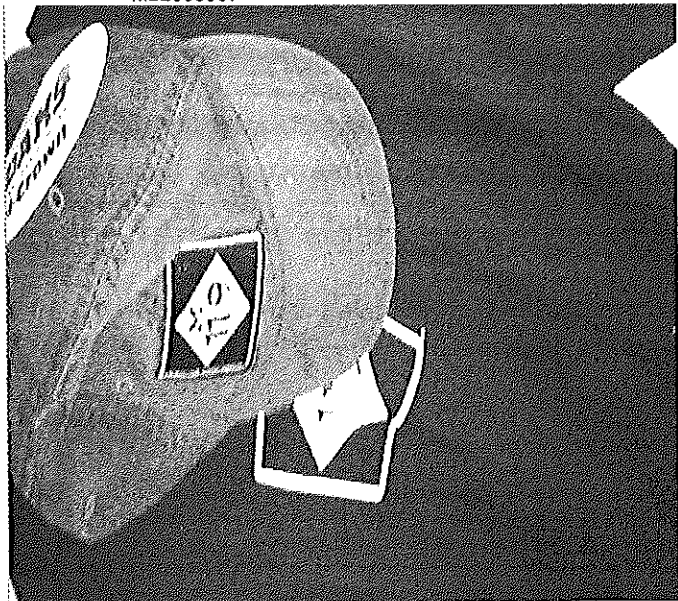
GOOD HART GENERAL STORE
GOOD HART, MICHIGAN
GOODHARTSTORE.COM

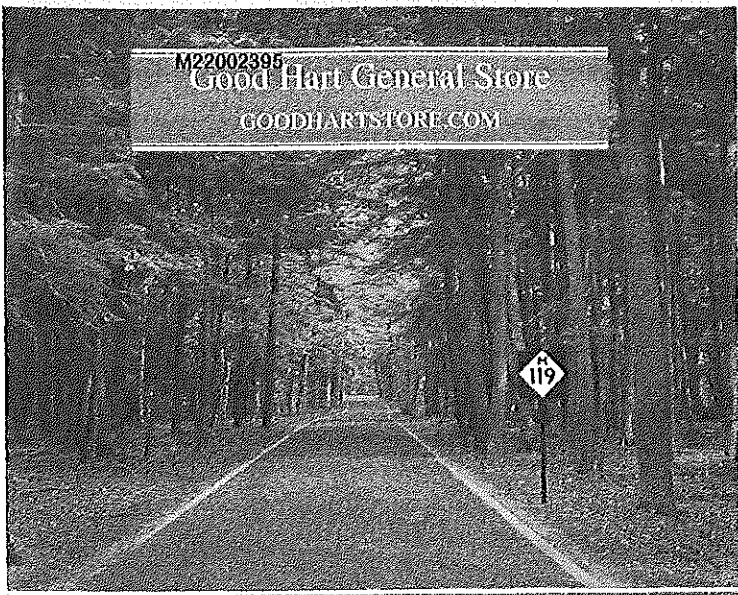
RED HOUSE RED

M22000566



M22000567

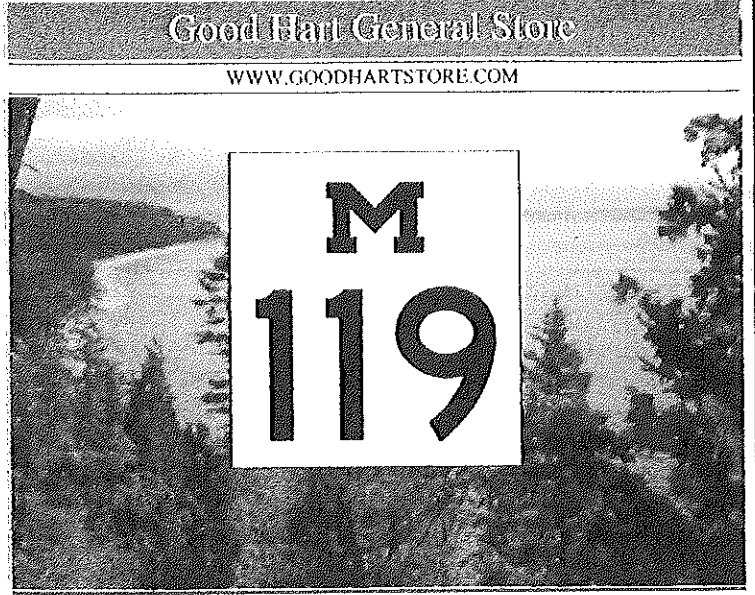




M22002395
Good Hart General Store
GOODHARTSTORE.COM

THE TUNNEL OF TREES
Good Hart, Michigan

PINOT NOIR



Good Hart General Store

WWW.GOODHARTSTORE.COM

THE TUNNEL OF TREES
Good Hart, Michigan

PINOT NOIR

Good Hart General Store

WWW.GOODHARTSTORE.COM

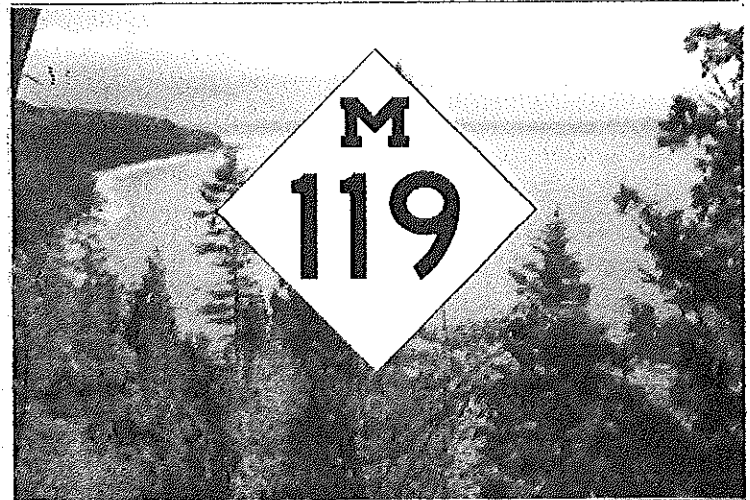


THE TUNNEL OF TREES
Good Hart, Michigan

PINOT NOIR

Good Hart General Store

WWW.GOODHARTSTORE.COM



THE TUNNEL OF TREES
Good Hart, Michigan

PINOT NOIR



Exhibit 42 to MDOT's MSJ

TRAVERSElegal

ATTORNEYS & ADVISORS

September 11, 2008

VIA CERTIFIED MAIL/RETURN RECEIPT

Route Scouts
Attn: Mary Roberts, Heidi Marshall
and Rebecca Glotfelty
P.O. Box 533
Petoskey, MI 49770

Re: Notice Letter of Trademark Issues

To Whom It May Concern:

This is a follow-up to two emails I sent you through your website of www.routescouts.com. As you know, I represent M-22, LLC concerning their various registered trademarks for M-22 and other brands in international classes relating to apparel, wine and other products. This letter will again put you on notice of our client's trademark rights and our belief that your "route scouts" use of M-119 infringes on my client's previously registered trademarks. It is clear that you have essentially copied my client's business model. While we appreciate the goal of generating funds to benefit the cultural preservation along M-119 corridor, we have already received feedback potential customers who believe that my client owns, operates, endorses or sponsors the apparel which you are selling at:

Cycling Salamander Art Gallery (7 miles south of Charlevoix),
McLean and Eakin Booksellers (downtown Petoskey),
Indian Hills Gallery (on M119),
Harborwear in downtown Harbor Springs,
Primitive Images (Good Hart), and
Legs Inn.

As noted in my previous emails, I am asking again that you contact our office directly so that we can discuss this matter. Our next step would be to send to notice letters to the retail establishments noted on your website indicating the trademark issues noted above and asking them to cease distribution in order to avoid their potential liability in the matter.

M22000330

September 11, 2008

Page 2 of 2

I look forward to hearing from you no later than September 19, 2008.

Sincerely,

TRAVERSE LEGAL, PLC

A handwritten signature in black ink, appearing to read "Enrico Schaefer". The signature is written in a cursive style with a large initial "E".

Enrico Schaefer

Enrico.Schaefer@traverselegal.com

ES/cam

cc: M-22, LLC

TRAVERSElegal

ATTORNEYS & ADVISORS

September 17, 2008

VIA MAIL / FACSIMILE / EMAIL

Wallace H. Glendening
1550 Buhl Building
Detroit, Michigan 48226

Fax: 313-221-9488
Email: whg@comcast.net

Re: M119 Trademark Infringement

Mr. Glendening:

Thank you for your September 12, 2008 letter on behalf of route Scouts LLC. Let me first clarify my typo and answer your question by noting that our client, M22, LLC does not have a registered trademark for M119.

That said, we reiterate our position that your client's continued use of the M119 logo on t-shirts infringes upon our client's registered M22 trademarks, which include the following registrations with the United States Patent and Trademark Office:

1. M 22 M22ONLINE.COM
Registration Number: 3348635
International Class: 025. Apparel specifically hats, t-shirts, long sleeve shirts, sweat shirts, pants, shorts, underwear, tank tops.
First Use In Commerce Date: 20040101
Filing Date: August 29, 2006
2. M22
Registration Number: 3427900
International Class: 033. Wine.
First Use In Commerce Date: 20071000
Filing Date: June 4, 2007

It is clear that your client has not only copied our client's business model, but they have also copied our client's trade dress by using the same colors and a confusingly similar mark with the same logo design. See Exhibit A, Printout of website listing M119

September 17, 2008

Page 2 of 2

shirts for sale and directing consumers to distributors. These factors show purposeful copying in an effort to divert business from our client, which further benefits our client's position. See *Leelanau Wine Cellars v. Black & Red*, 502 F.3d 504, 520 (6th Cir. 2007). Most importantly, the fact remains that your client's use of the mark has resulted in actual confusion. As you know, "[e]vidence of actual confusion is undoubtedly the best evidence of likelihood of confusion." See *AutoZone, Inc. v. Tandy Corp.*, 373 F.3d 786, 795-96 (6th Cir. 2004).

As a result, we request that your client immediately:

1. Cease and desist any and all use of any mark, including M119, in such a way that would create a likelihood of consumer confusion, dilute M22, LLC's M22® or other marks, or otherwise damage the M22® mark or M22, LLC;
2. Not produce, advertise, market, promote, sell, distribute or otherwise use our the M119 mark, or any colorable imitation thereof, in connection with any clothing or other products or services that would be likely to cause consumer confusion as to source or origin; and
3. Keep all evidence of use, all revenue attributable to the sale of the infringing items, and all associated expenses attributable to the sale of the infringing items. Failure to do so subjects you to claims of spoliation of evidence.

We would ask that your client confirm, in writing, its willingness to abide by our requests no later than September 25, 2008. In the meantime, we welcome the opportunity to discuss this matter with you further if need be. Our goal is to avoid the consumer confusion that has undoubtedly occurred without court intervention, if possible.

Sincerely,

TRAVERSE LEGAL, PLC



Enrico Schaefer
Enrico.Schaefer@traverselegal.com

ES/bah

cc: M-22, LLC

M22002454

SEARCH BLOG | FLAG BLOG | Next Blog>>

Create Blog | Sign In

ROUTE SCOUTS

AUDIO TOURS OF MICHIGAN'S HERITAGE HIGHWAYS

P.O. Box 533, Petoskey, MI 49770

Route Scouts is dedicated to the preservation and celebration of tradition, activities, heritage, stories, flora, and arts and culture of northern Michigan. We create self-guided audio tours of the scenic routes and trails and sights of Northern Michigan.

THE ROUTE SCOUTS

Home

The Scouts

WEDNESDAY

M-119 Apparel

CONTACT US:

Your message



Name:

Your location

Email Address:

- How did you learn about Route Scouts?
- online search
 - word of mouth
 - audio tour
 - M119 t-shirts
 - newspaper
 - store

Route Scouts is proud to introduce M119 T-shirts. Celebrate what many call Michigan's most beautiful scenic highway by sporting M119 apparel.

Shirts can be purchased at:

- Cycling Salamander Art Gallery (7 miles south of Charlevoix)
- McLean and Eakin Booksellers (downtown Petoskey),
- Indian Hills Gallery (on M119),
- Harborwear in downtown Harbor Springs
- Primitive Images (Good Hart),
- Legs Inn (Cross Village).

Twenty percent of sales will directly benefit the cultural preservation along the M-119 corridor.

POSTED BY REBECCA AT 11:31 PM

create form

Newer Post

Home

Older Post

M22002455

M-119 APPAREL



FEATURED ROUTE SCOUT
RECIPE

Cock-a-leekie Soup

SUBSCRIBE TO ROUTE SCOUTS



BLOG ARCHIVE

▼ 2007 (5)

▼ May (3)

M-119 Audio Tour

Mackinac Island Audio Tour

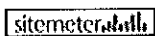
Cock-a-leekie Soup

► April (1)

► February (1)

Absolute Michigan - All Michigan, All
the Time

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M22002456

SEARCH BLOG | FLAG BLOG Next Blog»

Create Blog | Sign In

ROUTE SCOUTS

AUDIO TOURS OF MICHIGAN'S HERITAGE HIGHWAYS

P.O. Box 533, Petoskey, MI 49770

Route Scouts is dedicated to the preservation and celebration of tradition, activities, heritage, stories, flora, and arts and culture of northern Michigan. We create self-guided audio tours of the scenic routes and trails and sights of Northern Michigan.

THE ROUTE SCOUTS

Home

The Scouts

SATURDAY

M-119 Audio Tour

CONTACT US:

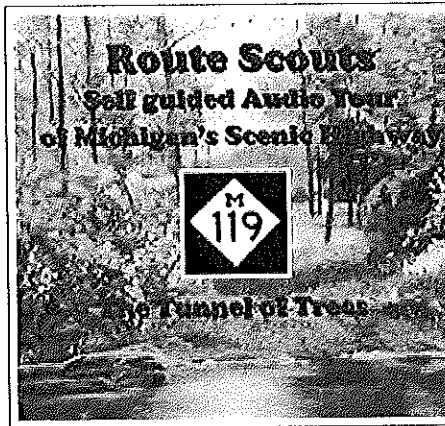
Your message

Name:

Your location

Email Address:

- How did you learn about Route Scouts?
- online search
 - word of mouth
 - audio tour
 - M119 t-shirts
 - newspaper
 - store

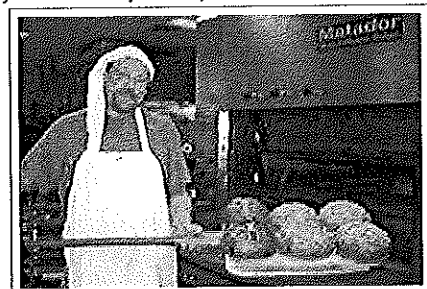


Coming Soon!

Route Scouts is your guide for the 27.5 mile journey along this Michigan Heritage Highway. M-119 is a mix of villages, lakes, pastoral vistas and winding road. You'll learn about Chief Petoskey, the formation of Little Traverse Bay, wonderful places to shop

and dine, ancient Odawa stories and much more. Various guides such as John Riggs of Thorne Swift Nature Preserve and Ray Kiogima, Odawa Elder, assist you on this journey. Join us in the Land of the Crooked Tree.

(Sean of Crooked Tree Bread Works delivers fresh bread daily)

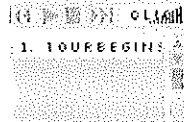


Listen to the introduction of the M-119 audio tour

create form

M22002457

M-119 APPAREL



FEATURED ROUTE SCOUT RECIPE

Cock-a-leekie Soup

SUBSCRIBE TO ROUTE SCOUTS

Posts [dropdown]
All Comments [dropdown]

BLOG ARCHIVE

▼ 2007 (5)

▼ May (3)

M-119 Audio Tour

Mackinac Island Audio Tour

Cock-a-leekie Soup

► April (1)

► February (1)

Absolute Michigan - All Michigan, All the Time

POSTED BY REBECCA AT 3:29 PM

Older Posts

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M-119 Audio Tour
The Route Scouts are your guide for the 17.5 miles journey on this Michigan Scenic Heritage Highway. M-119 is a mix of villages, lakes, pastoral vistas and winding roads. You'll learn about Chief Deloskey, the formation of Little Traverse Bay, wonderful places to stop and dine, ancient Odawa stories and much more. Various guides such as John Riggs of Thorne Swift Nature Preserve and Ray Klogman, an Odawa Elder, will assist you on this journey. Join us.

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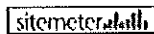


Exhibit 43 to MDOT's MSJ

Cathy Dittrich

From: Enrico Schaefer [enrico@traverselegal.com]
Sent: Friday, May 04, 2012 8:08 AM
To: btanis1@hotmail.com
Cc: Matt Myers; Cathy Dittrich; Broneah Dudes
Subject: Re: M22

Brian:

My name is Enrico Schaefer and I am the trademark attorney for M22. As you likely know, M22 spent years and substantial sums of money building M22 into a brand recognizable throughout the United States and beyond. It has severally federally registered trademarks which provide for the exclusive use of M22 marks throughout the United States, and to prevent any marks which might cause confusion to consumers.

We believe your use of M28 violates the M22 marks. We have already had confused customers mistake what you are doing with the M22 brand. Copying the success of M22 is a violation of federal law and can subject you to substantial damages, including up to \$150,000 in statutory damages for willful violations, and payment of attorney fees. It appears your business model is designed to directly mimic and infringe on the success of M22. I understand that you are doing more than just the Facebook page, and may even be selling merchandise and stickers which are almost identical to M22 federal trademarks. This is a serious issue which needs to be addressed.

I understand that you may have registered something to do with M28 in Michigan. Please understand that such a filing has no impact on this issue. Assuming you registered for a state trademark, you also affirmed as part of that filing that you were not violating any trademark rights. In any event, federal law controls. The first to use a mark in commerce has the exclusive right to use that mark, and preclude the use of confusingly similar marks. In this case, that is clearly M22. Federal registration provides enhanced remedies against people who infringe.

I would be happy to speak with you, or your attorney, directly about this important matter. Often times, we can work out an accommodation which allows both parties to move forward. It is our goal to resolve, rather than escalate, this issue. However, M22 must protect its marks and substantial investment. Please let me know when we might speak.

Enrico Schaefer
www.TraverseLegal.com
enrico.schaefer@traverselegal.com
866.936.7447
231-715-3298 (Direct Dial)

ps. I understand you sent an email to my client accusing them of 'hacking' your web site. M22 is a professionally run company with M22 stores in multiple locations, and global merchandise distribution. Neither M22 nor its owners or employees engages in activities such as hacking. We operate to resolve legal issues which arise in a professional manner, always seeking to educate people about our rights so everyone can make solid business decisions.

On May 3, 2012, at 11:58 AM, Broneah Kiteboarding wrote:

M22000020

> Brian.
>
> Nice talking today. Here is the link with the radio interview I
> mentioned. <http://m22online.com/products-page/trademark/>
>
> Traverse Legal, <http://www.traverselegal.com/> will be in touch with
> you soon to discuss your concerns.
>
> Thanks Keegan!
>
> --
> Best Regards,
>
> M-22
> "Join" on Facebook - <http://www.facebook.com/M22online>
> 125 East Front Street
> Traverse City, MI 49684
> www.M22online.com
> 231-360-9090
>
> BRONEAH
> "Join" on Facebook - <http://www.facebook.com/Broneah>
> 125 East Front Street
> Traverse City, MI 49684
> www.broneah.com
> 231-392-2212

Cathy Dittrich

From: Brian Tanis [btanis1@hotmail.com]
Sent: Friday, May 11, 2012 6:04 PM
To: enrico@traverselegal.com
Cc: matt@broneah.com; cathy.dittrich@traverselegal.com; m 22
Subject: RE: M22

I have taken down all photos of m28 on the facebook page. How do you suggest we work out so "both parties move forward".

> Subject: Re: M22
> From: enrico@traverselegal.com
> Date: Fri, 4 May 2012 08:08:02 -0400
> CC: matt@broneah.com; cathy.dittrich@traverselegal.com; broneah@broneah.com
> To: btanis1@hotmail.com
>
> Brian:
>
> My name is Enrico Schaefer and I am the trademark attorney for M22. As you likely know, M22 spent years and substantial sums of money building M22 into a brand recognizable throughout the United States and beyond. It has severally federally registered trademarks which provide for the exclusive use of M22 marks throughout the United States, and to prevent any marks which might cause confusion to consumers.
>
> We believe your use of M28 violates the M22 marks. We have already had confused customers mistake what you are doing with the M22 brand. Copying the success of M22 is a violation of federal law and can subject you to substantial damages, including up to \$150,000 is statutory damages for willful violations, and payment of attorney fees. It appears your business model is designed to directly mimic and infringe on the success of M22. I understand that you are doing more than just the Facebook page, and may even be selling merchandise and stickers which are almost identical to M22 federal trademarks. This is a serious issue which needs to be addressed.
>
> I understand that you may have registered something to do with M28 in Michigan. Please understand that such a filing has no impact on this issue. Assuming you registered for a state trademark, you also affirmed as part of that filing that you were not violating any trademark rights. In any event, federal law controls. The first to use a mark in commerce has the exclusive right to use that mark, and preclude the use of confusingly similar marks. In this case, that is clearly M22. Federal registration provides enhance remedies against people who infringe.
>
> I would be happy to speak with you, or your attorney, directly about this important matter. Often times, we can work out an accommodation which allows both parties to move forward. It is our goal to resolve, rather than escalate, this issue. However, M22 must protect its marks and substantial investment. Please let me know when we might speak.
>
> Enrico Schaefer
> www.TraverseLegal.com
> enrico.schaefer@traverselegal.com
> 866.936.7447
> 231-715-3298 (Direct Dial)
>
>
> ps. I understand you sent an email to my client accusing them of 'hacking' your web site. M22 is a professionally run company with M22 stores in multiple locations, and global merchandise distribution. Neither M22 nor its owners or employees engages in activities such as hacking. We operate to resolve legal issues which arise in a professional manner, always seeking to educate people about our rights so everyone can make solid business decisions.
>
> On May 3, 2012, at 11:58 AM, Broneah Kiteboarding wrote:
>
> > Brian.
> >

M22000028

> > Nice talking today. Here is the link with the radio interview I
> > mentioned. <http://m22online.com/products-page/trademark/>
> >
> > Traverse Legal, <http://www.traverselegal.com/> will be in touch with
> > you soon to discuss your concerns.
> >
> > Thanks Keegan!
> >
> > --
> > Best Regards,
> >
> > M-22
> > "Join" on Facebook - <http://www.facebook.com/M22online>
> > 125 East Front Street
> > Traverse City, MI 49684
> > www.M22online.com
> > 231-360-9090
> >
> > BRONEAH
> > "Join" on Facebook - <http://www.facebook.com/Broneah>
> > 125 East Front Street
> > Traverse City, MI 49684
> > www.broneah.com
> > 231-392-2212
>

Exhibit 44 to MDOT's MSJ

M22000006

810 Cottageview Dr. 231 932 0411 TEL
Suite G-20 231 932 0636 FAX
Traverse City
Michigan 49684 traverselegal.com

TRAVERSElegal.

ATTORNEYS & ADVISORS

March 24, 2010

VIA CERTIFIED MAIL AND EMAIL
mary@traversebaypaddler.com
susan@traversebaypaddler.com
PaddleAway, LLC
15763 Smokey Hollow Road
Traverse City, MI 49686

RE: Traversebaypaddler.com

Dear Mary and Susan:

As you know, this law firm represents M22, LLC, with regard to their various M22 trademarks, including M22 (Serial No. 77,197,208), M22online.com (Serial No. 78,963,038), and M185 (Serial No. 77,378,131). Please recall that we met last summer to discuss your use of "M37" on t-shirts and your website. During that meeting, we discussed my clients' various trademarks and your virtual identical copying of my clients' t-shirt designs and marketing model. During that meeting, you agreed to cease and desist using M37 on apparel and on your website. It is now apparent from the information on www.traversebaypaddler.com that you have actually violated that prior agreement and now are expanding your infringing activities. Before taking this matter further and potentially filing a complaint in Federal Court in Grand Rapids, we wanted to provide you one last opportunity to explain your actions. As you know, each instance of infringement can result in up to \$100,000 in statutory damages, plus attorneys' fees. Given your prior notice and, in fact, prior agreement to cease and desist, there is no question that your continued activities are intentional.

We would demand that you contact this office within the next three (3) business days and confirm that you will immediately disable the website and cease and desist the sale of any further M37 merchandise.

Sincerely,

Traverse Legal, PLC



Enrico Schaefer
enrico@traverselegal.com

ES/cad
Enclosures

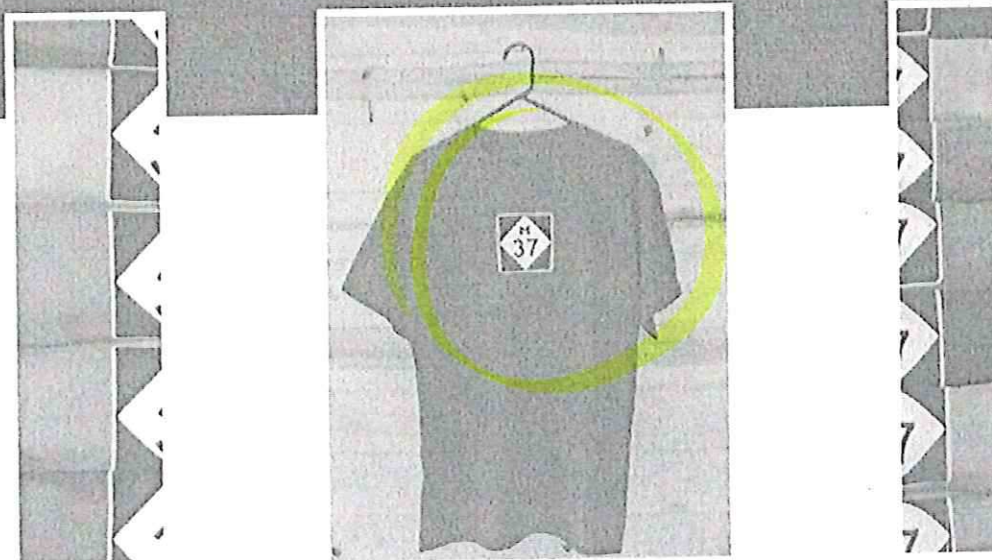
PaddleAway

OUR M 37 CONNECTION

M 37 is a state highway that runs north-south in the lower peninsula of Michigan, along rural pathways, passing lush green state forests, through bustling and sleepy towns, and over and under a number of scenic rivers. It bisects the 18 miles of Old Mission Peninsula (our home) in Traverse City, encompassing East and West Grand Traverse Bay views and ends at the Old Mission Lighthouse on the 45th Parallel.

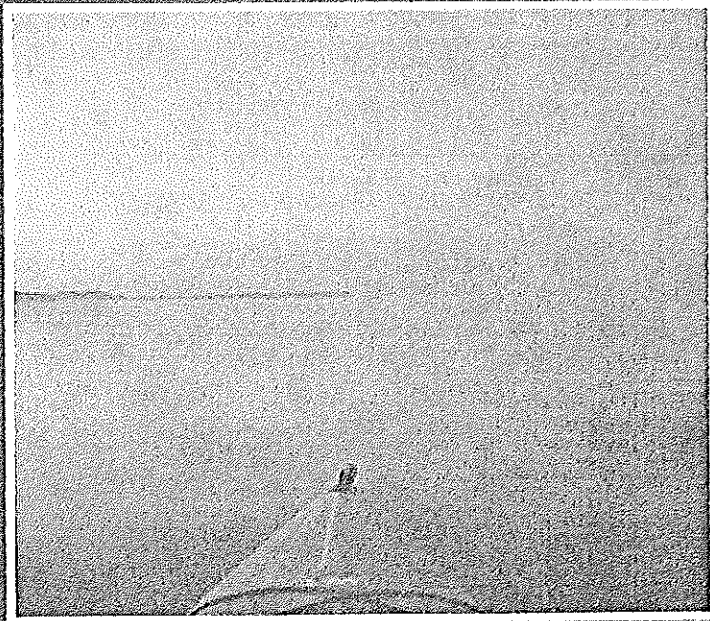
But to us, M 37 is more than a road. It is from where we, daily, take in scenic vistas, preserved farmlands (through Peninsula Township's historic citizen-financed Purchase of Development Rights Program) and our beloved Lake Michigan bay waters.

We have been known to call it our "road to enlightenment." So we fondly and proudly present a product line that honors M 37: Lots of colors are available (red, sapphire, heather cardinal, heather green, black, gold, camel, metro blue, lime, prairie dust, tangerine and cedar red) but limited quantities and sizes. Order yours now, or email us if your size or color is not available.



**M 37 Limited Edition Short Sleeve Cotton
T-Shirt
Price: \$15.00**

PaddleAway



ADDRESS:
PaddleAway, LLC
15763 Smokey Hollow Road
Traverse City, MI 49686

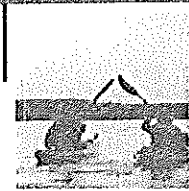
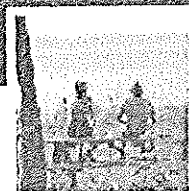
WEBSITE:
Traversebaypaddler.com

HOW TO CONTACT US:
Mary@traversebaypaddler.com
Susan@traversebaypaddler.com
231/715-1454

ABOUT US

TraverseBayPaddler.com and PaddleAway, LLC was formed by two women with different backgrounds but

...with a shared passion for the outdoors and a desire to provide a safe and fun paddling experience for all. We are committed to providing high-quality gear, instruction, and tours to help you enjoy the water. Our team consists of experienced paddlers and instructors who are dedicated to your safety and enjoyment. We offer a variety of options for all skill levels, from beginner to advanced. Whether you are looking for a guided tour or a private lesson, we have you covered. Contact us today to learn more about our services and how we can help you get out on the water.



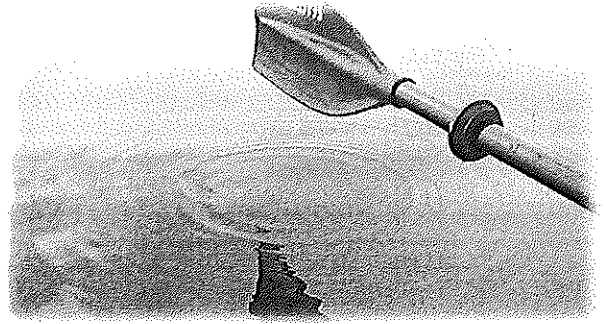
M22000380

PaddleAway LLC

15763 Smokey Hollow Rd.
Traverse City MI 49686
231-715-1454

Mary Manner

Susan Tarczon



April 26, 2010

Enrico Schaefer
810 Cottageview Dr.
Suite G-20
Traverse City MI 49684

REF: Traversebaypaddler.com

Dear Enrico,

In response to your April 20, 2010 letter, we agree to remove the ability to purchase the M37 t-shirts from our website.

We appreciate your clients' investment in marketing their products. However, we continue to believe consumers are not misled by road signs any more than Michigan drivers are misled by those same road signs.

It is our hope that both our organizations can now focus our energies on growing our respective companies and promoting northern Michigan as a great place to live and do business.

Best regards,

Mary

Susan

Mary U. Manner
CEO

Susan G. Tarczon
CFO

www.traversebaypaddler.com

TRAVERSElegal.

ATTORNEYS & ADVISORS

April 20, 2010

VIA EMAIL ONLY

Mary U. Manner mary@traversebaypaddler.com
Susan Tarczon susan@traversebaypaddler.com
PaddleAway, LLC
15763 Smokey Hollow Road
Traverse City, MI 49686

RE: Traversebaypaddler.com

Dear Ladies:

In response to your letter dated March 26, 2010, we believed that you should have been well done publicly selling any merchandise that you had. Also, it did appear that your website had been updated in order to do more marketing. People, are, in fact, confused believing that your products are being provided through M22.

We appreciate your response and indication that you have not expanded your inventory. Given the amount of time that has passed, however, we must request that you cease and desist any further marketing of the M37 merchandise. We cannot continue to allow further marketing activity. We would request that you cease marketing the t-shirts on traversebaypaddler.com. We would allow you to continue to sell your merchandise to customers who come to your tours. This way you could continue to sell any remaining merchandise that you have. The key is that we cannot allow any public marketing of the merchandise any further.

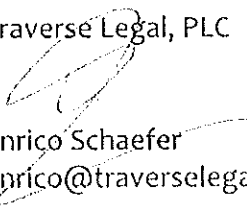
Please appreciate our position. My clients have well over six figures invested in creating this brand, not to mention innumerable hours of time. Your t-shirts look virtually identical to ours. There is no doubt that people are confused about the relationship between your company and ours and the source of the M37 merchandise. A jury would have no problem concluding that there would be a likelihood of confusion between the brands. More importantly, your sale of M37 simply encourages others to infringe.

April 20, 2010
Page 2 of 2

Please let me know if the above approach will work for you. Again, you would remove all M37 merchandise marketing from your website. You would agree not to publicly market M37 gear. We would allow you to continue to sell your merchandise to actual customers of your paddle tours.

Sincerely,

Traverse Legal, PLC



Enrico Schaefer
enrico@traverselegal.com

ES/cad
Enclosures