Good advice

To the Editor:

If members are not closely reading Roberta M. Gubbins's of-interest columns in the *Michigan Bar Journal*, they are missing out. For those who casually thumb through the magazine, Gubbins was the former editor of the *Ingham County Legal News*. She currently edits articles, blogs, and e-blasts as a ghostwriter for lawyers and law firms and is editor of *Briefs* and *The Mentor*.

Gubbins's article in the February 2017 issue, "Search Engine Optimization—In Plain English," discusses how lawyers can create or improve their website presence. She is absolutely correct when she writes that great content is the key to creating useful information. The trick is to attract consumers to your website. Space constraints preclude me from sharing all her helpful suggestions; visit the *Bar Journal* archives at https://www.michbar.org/journal/archive to read the February column and others.

I will leave you with one important tip: remove all the irrelevant narrative from your website, such as moot-court experience and why you became a lawyer, and succinctly state your practice areas. Also, update and enhance your free member directory profile powered by Zeekbeek with help at www.support@zeekbeek.com.

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Close the loophole

To the Editor:

We enjoyed reading Christopher Doyle's excellent article on the collateral source rule ("Collateral Damage: Is an Insurance Company 'Write-Off' a Collateral Source for Purposes of MCL 600.6303?," March 2017 *Michigan Bar Journal*), but also felt a twinge of irony that it was published in the lawyer-legislators issue. The Michigan Supreme Court does not often specifically bring matters "to the attention" of the Michigan legislature. Yet in *Greer v Advantage Health*, Justice Zahra, joined by Justice Markman and Chief Justice Young, did exactly that, requesting that the legislature address the loophole described in Doyle's article. Instead of globally addressing the issue in a manner that would apply uniformly, the legislature crafted a narrow exception for medical-malpractice cases. Why the concept of a collateral source should apply differently in med-mal cases is anyone's guess.

One twist to *Greer* not discussed in Doyle's article occurs in wrongful death cases. Because MCL 600.2922 limits damages for "reasonable medical…expenses for which the estate is liable," there is a strong argument that because an estate is not liable for amounts discounted or written off, the Wrongful Death Act does not authorize them as damages. Thus, no amount above and beyond what was actually paid (or what is actually owed) should qualify as evidence of damages in a wrongful death case. Of course, even if the Michigan Supreme Court recognized this argument, it would only apply to cases brought under the Wrongful Death Act, leaving the vast number of cases brought under the common law subject to the loophole described in Justice Zahra's dissent.

Michigan is a comparative-fault jurisdiction in which tortfeasors are responsible only for the damages caused by their respective percentages of fault (except, ironically, for med-mal cases). It therefore seems paradoxical to allow a plaintiff to recover damages as compensation for medical expenses he or she is not actually responsible for paying. We hope the legislature will again take up this issue and close the loophole in all cases, allowing the collateral source rule to operate as originally intended.

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