

August 25, 2023

Dear Joe Infante,

This letter serves as my expert report under Federal Rule of Civil Procedure 26(a)(2)(B). You asked me to express an opinion on the following topics: (1) what is “agritourism”, (2) whether “agritourism” is considered an agricultural use, and (3) whether “agritourism” is necessary for the viability of Michigan farms. A summary of my opinions is included below, along with the other information that I understand is required by Federal Rule of Civil Procedure 26(a)(2)(B).

Qualifications

I am a lifelong farmer. I served as the Director of the MDARD from January 1, 2019 through December 31, 2022. MDARD is responsible for cultivating and expanding economic opportunities for the food and agricultural sector; safeguarding the public’s food supply; inspecting and enforcing sound animal health practices; controlling and eradicating plant pests and diseases; preserving the environment by which the farming community makes their living and feeds consumers; and protecting consumers by enforcing laws related to weights and measures.

As Director, my duties included supervising six divisions, including the Agriculture Development Division, Animal Industry Division, Environmental Stewardship Division, Food and Dairy Division, Laboratory Division, and Pesticide and Plant Pest Management Division. The Agriculture Development Division also provides executive support for the Craft Beverage Council. I was the Chair of the Craft Beverage Council. My duties also included reviewing and approving the Generally Accepted Agricultural and Management Practices (GAAMPs) under the Michigan Right to Farm Act. The GAAMPs are updated annually to utilize current technology promoting sound environmental stewardship on Michigan farms.

A copy of my most recent resume, which more fully details my experience, is attached as Exhibit A. This resume is current up to my time with MDARD.

Publications and Prior Expert Testimony

I have not personally authored any publications within the last ten years. I have not testified at trial or by deposition as an expert within the last four years.

Compensation

I am being paid on an hourly basis. My hourly rate is \$435.00. My compensation is not contingent in any manner on the success of this case.

Facts and Data Considered

In forming these opinions, I relied on my experience as Director of MDARD for 4 years. During my time as Director of MDARD, Michigan agritourism was a top priority. Each year, October was proclaimed as 'Agritourism Month,' with joint proclamations as MDARD Director and Governor Gretchen Whitmer. This was put in place to highlight the importance of agritourism to the public. I also relied on the exhibits and documents listed below.

One of the major issues I was confronted with as a Michigan resident and former Director of MDARD, is how can we help young people become successful farmers? At this time, the average age of a farmer in Michigan is just under 60 years old. One of the reasons for this is that it is so difficult for young people to obtain a farm, unless it is a legacy handed down. So, it is imperative that we help the next generation of farmers to feed not just Michigan, but the world.

For young people to enter into farming, it has to be profitable. They have to be able to make a living doing it. Some of the major impediments are the high price of farm land (if it is even available) and the high cost of purchasing equipment.

On top of the roadblocks mentioned above, there is uncertainty when working in agriculture that is out of the farmer's control. Some examples are the price of farm commodities, the weather, the cost of your inputs, and the ever-changing climate, which farmers are the first to feel the impact.

During my time as Director of MDARD, I toured many farms that offered agritourism opportunities. The majority of the farmers I spoke with stressed how important the agribusiness

portion was to the success of their farm. Due to the high stress of farming, it is well documented that the mental health of farmers are at risk. Michigan has had to put in place resources for farmers to receive mental health treatments. One of the main causes for stress among farmers is the uncertainty of a successful operation.

Exhibits and Documents Reviewed

Michigan Commission of Agriculture and Rural Development.
Generally Accepted Agricultural and Management Practices for Farm Markets – 2023.

Opinion and Order on Summary Judgment (ECF No. 162)

Affidavits of Barbara Wunsch and John Jacobs

Peninsula Township Zoning Ordinance Sections 6.7.2(19), 8.7.3(10), and 8.7.3(12).

Michigan Agricultural Tourism Advisory Commission
Agricultural Tourism Local Zone Guidebook and Model Zoning Ordinance Provisions

Opinions

Agritourism is one way to help farmers with a supplementary and stable income. It is something the farmer can control, as opposed to the issues I mentioned above. It can make the difference between a successful farm operation and another business that couldn't survive. Their success can be achieved if they are given all available opportunities and tools to thrive.

Generally, “agritourism” is the practice of visiting an agricultural operation that is actively producing agricultural products for purchase while experiencing the venue. Michigan is very fortunate in the diversity of opportunities for agritourism, given we produce over 300 types of crops. This makes us one of the most diverse states in the nation. Examples of agritourism in Michigan are wineries, apple orchards, breweries, Christmas Tree farms, corn mazes, distilleries, farmer's markets, cideries, and pumpkin patches – just to name a few. When you are invited to a wedding that is in a barn or vineyard, that is agritourism. Farm to table is another form of agritourism.


With agritourism, it is very important to the economies in rural

Michigan. Every farm operation is equivalent to a small business in your community. Just as a small business would, a farm has employees, payroll, and purchases supplies and services from other local businesses. You are also increasing the number of visitors to your community, which in turn, increases the profitability of other businesses in the area. No tourist will only stop at one establishment when visiting our rural communities.

Businesses that contribute to agritourism contribute to the gathering of friends and family. It is a way for people to connect not only with each other, but also with Michigan's farming heritage. Most people have a connection to a farmer in one way or another. Being able to experience agritourism first-hand helps them understand the challenges and perseverance of our farm community, while also enjoying the fruits of the farmer's labor (or cherries, or grapes, or hay, etc). Because of this, agritourism is an agricultural use, given this is the only viable way that farm production and a unique farm experience can connect; while also successfully contributing to both the Michigan farm economy and tourism.

Agritourism is important and necessary. With it, a farm's success rate can increase exponentially. We must support our farmers to thrive in this very difficult environment and economy. We owe it to our them to give them every opportunity to succeed.

Thank you and please don't hesitate to reach out to me for any additional comments or feedback.



Gary McDowell

Exhibit A

Gary J. McDowell
11585 W. Welch, Rudyard, MI 49780
906-440-6149/garymcdowell498@gmail.com

PROFESSIONAL SKILLS SUMMARY

Managerial and Leadership Professional well respected for ability to be a conceptual thinker, delegate and mentor. Excellent organizational, communication, problem-solving, and decision-making skills. Attentive to detail, ability to quickly and effectively prioritize to meet specific goals. Broad knowledge of governmental legal compliances.

PROFESSIONAL EMPLOYMENT

MCDOWELL HAY, INC.
1/3 Owner & Treasurer

Rudyard, MI
1981 - Present

- Negotiate the purchase of hay with local farmers.
- Marketing Eastern Upper Peninsula hay to markets across the country.
- Coordinate with trucking companies and loading crews for the transportation of hay to the markets.

MCDOWELL BROTHERS FARM
Partner

Rudyard, MI
1980 - Present

- Operate a 1,000-acre farm.
- Specialize in high-quality horse hay for export.

CENTURY21 ADVANTAGE PLUS
Realtor

Sault Ste. Marie, MI
2013 - Present

- Develop property listings by building rapport and reaching out to potential sellers.
- Lists property by examining property; recommend improvements that will enhance salability; coordinate with appraisers to set a selling price; close a contract; understand importance of time-sensitive material.
- Develop buyers by responding to inquiries.
- Close sales by understanding buyers' requirements; match requirements to listings; show properties; demonstrate benefits; relay offers; suggest alterations; negotiate contracts; write a contract.
- Update job knowledge by studying listings; visit properties; participate in educational opportunities; maintain personal networks; participate in professional and community organizations.
- Attend mandated Continuing Education classes approved by the State of Michigan.

MICHIGAN STATE HOUSE OF REPRESENTATIVES - 107th District
State Representative

Lansing, MI
2005-2010

- Introduce and vote on bills pertaining to state government.
- Establish and monitor the state's budget.
- Maintain continuous communication with constituents assisting with issues they may have with state government.
- Identify processes that maximize efficiencies in government.
- Manage staff and set goals and objectives.

CHIPPEWA COUNTY COMMISSION - 7TH District
Commissioner

Sault Ste. Marie, MI
1981 - 2002

- Introduce and vote on county ordinances.
- Establish and monitor the budget while maximizing government efficiencies.
- Develop and implement county personnel policies.
- Maintain continuous communication with constituents and assist with issues they may have with county government.

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UNITED PARCEL SERVICE
Delivery Driver

Rudyard, MI
1973 - 2003

- Sort, organize, and deliver 100 (M/L) packages to approximately 60 homes and/or businesses spread over 200 miles daily under tight schedules.
- Develop and maintain a good working rapport with businesses and agriculture community.
- Maintain work reports.

EDUCATION and LICENSES

Department of Licensing and Regulatory Affairs
State of Michigan Real Estate Salesperson License

2013 - Present

Department of Licensing and Regulatory Affairs
State of Michigan Emergency Medical Technician License

1995 - 2002

Lake Superior State College
Completed two years with a focus on accounting.

1970 - 1972

Rudyard High School
K-12

1970

ORGANIZATIONS & COMMUNITY SERVICE

- War Memorial Hospital Board of Trustees
- Member of the National Hay Association
- Michigan Farm Bureau (former)
- Sault Area Sportsman Club (former)
- Sault Elks Club (former)
- Rudyard Lions Club (former)
- Christopher Columbus Society
- EMT Rudyard Volunteer Ambulance Department (former)
- Chairman, Chippewa County Board of Commission (former)
- Chairman, Chippewa County 9-1-1 Board (former)
- Chairman, Chippewa County Emergency Services (former)
- Chippewa County Recycling Committee (former)
- Chippewa County Economic Development Commission (former)
- Rudyard Planning & Zoning (former)
- Rudyard Volunteer Fire Department (former)

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AWARDS & RECOGNITIONS

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|-----------------------------------------------------------------------------------------|------|
| Century21 Advantage Plus – *Masters Emerald Award | 2017 |
| Century21 Great Lakes Region – *Platinum Sales Achievement Award | 2016 |
| Century21 Advantage Plus – *Ruby Award | 2014 |
| Community Based Mental Health Services – *Go-To-Bat | 2010 |
| Public Health Association – Health Policy Champion | 2010 |
| Michigan Oral Health Coalition – *Oral Health Champion | 2010 |
| Michigan Mental Health Association – *Snyder-Kok Award | 2010 |
| Michigan Council For Maternal & Child Health (MCMCH) – *Legislator of the Year | 2010 |
| Kent County Mental Health – *Certificate of Appreciation | 2010 |
| Comprehensive School Health Coordinators Association – *Healthy Children Award | 2010 |
| Michigan Primary Care Association – *Champion for the Medically Underserved | 2010 |
| Fight Crime Invest in Kids – *Crime Fighter Award | 2010 |
| Michigan After School Partnership – *After School Champion Award | 2009 |
| Michigan Pharmacist Association – *Legislator of the Year | 2009 |
| Food Bank Council of Michigan – *Hunger for Justice Award | 2009 |
| Northern Michigan Substance Abuse Services – *NMSAS Recognition | 2009 |
| Michigan Association of Substance Abuse Coordinating Agencies – *Legislator of the Year | 2009 |
| Michigan Health & Hospital Association – *Special Recognition Award | 2009 |
| National Kidney Foundation of Michigan – *Kidney of Hope Award | 2008 |
| Michigan Association of Health Plans – *Legislator of the Year | 2007 |
| In Appreciation of UP Ophthalmologists – *Legislator of the Year | 2007 |
| Michigan Rural Health Association – *Recognition Award | 2007 |
| Michigan Council For Maternal & Child Health (MCMCH) – *Legislator of the Year | 2007 |
| National Multiple Sclerosis Society – *Public Official of the Year Award | 2007 |
| Michigan Reading Association - *Literacy Advocate Award | 2006 |
| United Parcel Service – *Circle of Honor Award | 1999 |
| Rudyard High School - *National Honors Society | 1970 |
| Future Farmers of America - *State Farmer Award | 1970 |