

**STATE OF MICHIGAN
IN THE COURT OF APPEALS**

Cover Sheet

CASE NO.

Year Number Case Type

CIRCUIT: 13 000652 N9

COURT OF APPEALS: 317972

Lower Court or Tribunal

WAYNE CIRCUIT COURT

Filing Party

Filing Party Last Name or Business/Entity/Agency Name

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Type	Filename/Description	Filing Fee	Doc Fee	Total This Filing
Brief	Defendant-Appellee Thomas K. Culpert's Brief on Appeal	\$5.00	\$0.00	\$5.00

3% Service Fee: \$0.15

Fee Substitute/Alternate Payment

Total All Filings: \$5.15

Reason:

- Appointed Counsel
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Lower Court or Tribunal
WAYNE CIRCUIT COURT

STATE OF MICHIGAN
IN THE COURT OF APPEALS
Proof of Service

CASE NO. Year Number Case Type
CIRCUIT: 13 000652 N9
COURT OF APPEALS: 317972

Case Name: TAMARA FILAS V KEVIN THOMAS CULPERT

On 1/9/2014, one copy of the following documents:

Brief Defendant-Appellee Thomas K. Culpert's Brief on Appeal

was delivered to the persons listed below:

Date
1/9/2014

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/s/Sandra L. Vertel

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STATE OF MICHIGAN

IN THE COURT OF APPEALS

Appeal from the Circuit Court for the County of Wayne
The Honorable Susan Borman, Circuit Judge

TAMARA FILAS,

Court of Appeals No. 317972

Plaintiff-Appellant,

Lower Court No. 13-000652-NI

-vs-

THOMAS K. CULPERT and
EFFICIENT DESIGN, INC.,

Defendants-Appellees.

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DEFENDANT-APPELLEE THOMAS K. CULPERT'S BRIEF ON APPEAL

ORAL ARGUMENT REQUESTED

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STATEMENT OF JURISDICTION

Defendant-Appellee Thomas K. Culpert (“Culpert”) does not contest the Statement of Jurisdiction provided in the Brief on Appeal of Plaintiff-Appellant Tamara Filas (“Plaintiff”). This Court has jurisdiction over this appeal per MCL 600.308(1)(a) and MCR 7.203(A).

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COUNTER-STATEMENT OF QUESTION INVOLVED

- I. **Did the Circuit Court properly dismiss Plaintiffs' lawsuit, where Plaintiff put her medical condition into controversy by filing a personal injury claim, but refused to sign authorizations to release her medical records, and where this tactic – manipulating the physician-patient privilege so as to allow the Plaintiff to selectively disclose relevant evidence – is expressly prohibited by *Domako v Rowe* and other precedents of the Supreme Court and this Court?**

The Trial Court said: “yes.”

Plaintiff-Appellant says: “no.”

Defendant-Appellee Efficient Design, Inc. will likely say: “yes.”

Defendant-Appellee Thomas K. Culpert says: “yes.”

COUNTER-STATEMENT OF FACTS AND PROCEEDINGS

Plaintiff filed this third-party automobile negligence action on January 14, 2013, relative to a January 15, 2010 motor vehicle accident. (Appellant's Brief, p 1; Ex. D attached to Appellant's Brief, p 1.) The suit on appeal here was actually a re-initiation of a 2011 combined first and third-party suit, Wayne County Circuit Court No. 11-014149-NF, which Plaintiff had filed relative to the same accident. (Ex. 1.) The Circuit Court dismissed that suit without prejudice on August 22, 2012. (Id., p 2.)

In the instant action, Plaintiff filed suit against Culpert, the driver of the other vehicle involved in the January 15, 2010 accident, as well as Efficient Design, Inc. ("Efficient"), which Plaintiff believed was Culpert's employer at the time of the accident. (Appellant's Brief, p 1.) On or about February 7, 2013, Efficient requested (among other discovery) copies of Plaintiff's medical records. (Ex. A attached to Appellant's Brief.) Culpert also requested various discovery from the Plaintiff, including requests for medical authorizations, on or about March 22, 2013. (Ex. I attached to Appellant's Brief, ¶ 1.) Plaintiff did not timely respond to these requests. (See Id., ¶ 3.)

Around the time that these requests were due, Plaintiff had a falling out with her attorney, Daryle Salisbury. (See Ex. D attached to Appellant's Brief, p 2.) Mr. Salisbury moved to withdraw, and the Circuit Court granted his motion at a May 2, 2013¹ hearing. (See Id.) At that hearing, the Circuit Court also stayed the case so as to allow Plaintiff to find a new attorney. (See 6/21/13 trans, p 11.) Plaintiff did not retain a new attorney, and elected to proceed in pro

¹ There is no indication that Plaintiff has ordered this transcript. "Normally, failure to provide this Court with the relevant transcript, as required by MCR 7.210(B)(1)(a), constitutes a waiver of the issue." *People v Anderson*, 209 Mich App 527, 535; 531 NW2d 780 (1995). Therefore, Plaintiff has waived any purported error with respect to the May 2, 2013 hearing. See also *Myers v Jarnac*, 189 Mich App 436, 444; 474 NW2d 302 (1991).

per. (See *Id.*; 8/9/13 trans.) Representing herself, Plaintiff had a number of issues with Defendants' discovery requests.

The Circuit Court first attempted to resolve these issues at a June 21, 2013 motion hearing. On that date, Efficient brought "a general basic motion to compel." (6/21/13 trans, p 5.) Efficient had actually attempted to argue this motion on May 2, 2013, but the court adjourned it at that time and "stayed [the case] to allow Ms. Filas to obtain successor counsel...." (*Id.*, p 11.) As part of this motion to compel, Efficient sought "signed medical authorizations" from the Plaintiff. (*Id.*, p 6.) As Efficient's counsel explained, this had been an ongoing problem dating back to the 2011 case. (*Id.*) At that time, the Circuit Court advised Plaintiff that "you have to do that" or Plaintiff would "leave the Court no alternative but to dismiss this case too." (*Id.*)

Plaintiff objected on the grounds that Efficient was contesting liability, and Plaintiff did not want to give medical authorizations to a party that might not have liability. (*Id.*, pp 6-7.) The Circuit Court attempted to explain that this was not a coherent basis for refusing to sign the authorizations. (*Id.*, p 7.) Plaintiff then said "I will fill out authorizations for them." (*Id.*, p 8.) Plaintiff did not express any objection to the language of the authorizations at that time. (See *Id.*) The Circuit Court then held that the authorizations had to be signed by 2:00 p.m. the following Monday (June 24, 2013) or "I'm going to dismiss the case on Monday." (*Id.*) Plaintiff could not simply sign the authorizations at the hearing because Efficient's counsel learned the identities of the Plaintiff's treaters for the first time at that hearing (there were "about 27" of them and interrogatory requests had not been timely answered), so he was unable to prepare the authorizations in advance. (*Id.*, p 17.) Counsel for Culpert requested "the same relief" that

Efficient had been given because Culpert had also been seeking “authorizations as well and I would like the answers to interrogatories.” (Id., p 9.)

Plaintiff did not sign the authorizations by 2:00 p.m. the following Monday. (6/24/13 trans.) Efficient’s counsel appeared before the Circuit Court at approximately 2:30 p.m. to seek enforcement of the ruling from the previous Friday. (Id., p 3.) Efficient’s counsel explained that Plaintiff “did stop by my office and she provided some authorizations” but “they were altered.” (Id.) Plaintiff had also failed to return some of the requested authorizations at all. (Id.) Plaintiff did not appear for this hearing. The Circuit Court attempted to telephone the Plaintiff but there was no answer. (Id., p 5.) Shortly thereafter, someone “called back and said they were her mother. The person identified herself as her mother. [The court] clerk, who talked to her said it sounded like Ms. Filas herself. However, this person claiming to be her motion gave us a telephone number. And we called that number as well and no answer.” (Id.) In light of Plaintiff’s non-compliance with the June 21, 2013 ruling, the Circuit Court dismissed Plaintiff’s case “in its entirety without prejudice.” (Id., p 6.) The court delayed entry of this order until July 1, 2013, so that Plaintiff would have an opportunity to object. (Id.)

Plaintiff did object, and the parties returned to the Circuit Court on August 9, 2013. At that time, the Circuit Court explained the situation to Plaintiff as follows:

...if you want to proceed with your case, you’ll have to sign these authorizations. They have them with them today. If you want to proceed and you want the Court to reinstate the case, sit down and sign the authorizations. I’m going to give you one last chance. (8/9/13 trans, p 3.)

At that point, Plaintiff indicated, for the first time in this lawsuit, that “I have a problem with some of the clauses.” (Id.) The Circuit Court, presumably in reference to Plaintiff’s related first-party suit (see Appellant’s Brief, p 5), responded that “I’ve already ruled on that.” (8/9/13 trans, p 3.) Plaintiff again indicated that she would not sign the authorizations as written, so the

Circuit Court ruled that “the dismissal stands.” (Id., p 4) Plaintiff then brought this appeal by right.

STANDARDS OF REVIEW

Plaintiff appeals from Judge Borman’s Order dismissing Plaintiff’s lawsuit for discovery violations. “This Court reviews for an abuse of discretion a trial court’s decision with regard to whether to impose discovery sanctions.” *Linsell v Applied Handling, Inc*, 266 Mich App 1, 21; 697 NW2d 913 (2005). “[A]n abuse of discretion occurs *only* when the trial court’s decision is outside the range of reasonable and principled outcomes.” *Saffian v Simmons*, 477 Mich 8, 12; 727 NW2d 132 (2007) (emphasis added).

In the discovery context, such deference is warranted because the trial court “is in the best position to determine if a party has complied with” discovery rules. *Melendez v Illinois Bell Tel Co*, 79 F3d 661, 670-671 (7th Cir 1996). “Similarly, the [trial] court has primary responsibility for selecting an appropriate sanction,” and appellate courts generally will not disturb that selection “absent a clear abuse of discretion.” *Id.* See also *State v Belken*, 633 NW2d 786, 796 (Iowa 2001): “Generally, we defer to the trial court on discovery matters ... because the trial court is in the best position to determine whether prejudice resulted.”

ARGUMENT

In this third-party automobile negligence suit, the Circuit Court properly dismissed Plaintiffs' lawsuit, where Plaintiff put her medical condition into controversy by filing a personal injury claim, but refused to sign authorizations to release her medical records. This tactic – manipulating the physician-patient privilege so as to allow the Plaintiff to selectively disclose relevant evidence – is expressly prohibited by *Domako v Rowe* and other precedents of the Supreme Court and this Court.

Defendant's entitlement to the discovery sought is clear under the court rules. See MCR 2.305(A)(1); MCR 2.306(A)(1); MCR 2.314(B). "It is well settled that Michigan follows an open, broad discovery policy that permits liberal discovery of any matter, not privileged, that is relevant to the subject matter involved in the pending case." *Reed Dairy Farm v Consumers Power Co*, 227 Mich App 614, 616; 576 NW2d 709 (1998). There are no "good cause" or "admissibility" requirements for discovery requests. *Domako v Rowe*, 438 Mich 347, 359 n 10; 475 NW2d 30 (1991).

Under Michigan law, a plaintiff who brings a personal injury action waives the physician-patient privilege. MCL 600.2157; *Holman v Rasak*, 486 Mich 429, 436; 785 NW2d 98 (2010). A plaintiff who puts his or her medical condition at issue in a lawsuit waives any assertion of privilege when disclosure furthers the goals of discovery. *Howe v Detroit Free Press, Inc.*, 440 Mich 203, 214; 487 NW2d 374 (1992); *Domako, supra* at 354. MCR 2.314(B)(2) states that "if a party asserts that the medical information is subject to a privilege and the assertion has the effect of preventing discovery of medical information otherwise discoverable ... the party may not thereafter present or introduce any physical, documentary, or testimonial evidence relating to the party's medical history or mental or physical condition." The waiver of the physician-patient privilege is codified at § 2157:

If the patient brings an action against any defendant to recover for any personal injuries ... and the patient produces a physician as a witness on the patient's own behalf who has treated the patient for the injury... the patient shall be considered to have waived the privilege provided in this section as to another physician who has treated the patient for the injuries, disease or condition.

This waiver of privilege is based on the fundamental fairness of permitting defense counsel equal access to investigate the facts put at issue by plaintiff's claims alleging personal injuries. *Domako, supra* at 354-355. "The purpose of providing for waiver is to prevent the suppression of evidence ... an attempt to use the privilege to control the timing of the release of information exceeds the purpose of the privilege and begins to erode the purpose of the waiver by repressing evidence." *Id.* (citations omitted).

The rules in Michigan allow the assertion of the physician-patient privilege at various stages of the proceedings. The court rules do permit, however, an implied waiver when the patient fails to timely assert the privilege. MCR 2.314(B)(1) requires that the party assert the privilege "in the party's written response under MCR 2.310," and MCR 2.302(B)(1)(b) requires the assertion of the privilege "at the deposition." The penalty for not timely asserting the privilege, under either of these court rules, is to lose the privilege for purposes of that action. The rules obviously recognize that "it is patently unfair for a party to assert a privilege during pretrial proceedings, frustrate rightful discovery by the other party, and then voluntarily waive that privilege at trial, thereby catching the opposing party unprepared, surprised, and at an extreme disadvantage." *Domako, supra* at 355-356. "Thus the rule requires that a party choose between the existing privilege and the desired testimony. The party may not have both." *Id.*

Here, Plaintiff placed her medical condition into controversy by filing this personal injury action, thereby waiving the privilege under § 2157. Moreover, the record is devoid of any indication that Plaintiff timely asserted the privilege in accordance with MCR 2.314(B)(1).

Under these circumstances, the Circuit Court correctly noted that Plaintiff left “the Court no alternative but to dismiss....” (6/21/13 trans, p 6.)

Moreover, Plaintiff’s principal argument on appeal – that the trial court ordered her to sign authorizations that were inconsistent with the “SCAO-mandated” forms – was not raised below, and therefore is not preserved for appellate review. See *Peterman v Department of Natural Resources*, 446 Mich 177, 183; 521 NW2d 499 (1994). See also *Coates v Bastian Bros, Inc*, 276 Mich App 498, 510; 741 NW2d 539 (2007), where this Court noted that “[i]ssues raised for the first time on appeal are not ordinarily subject to review.”

“The purpose of appellate preservation requirements is to induce litigants to do everything they can in the trial court to prevent error, eliminate its prejudice, or at least create a record of the error and its prejudice.” *People v Taylor*, 195 Mich App 57, 60; 489 NW2d 99 (1992). Issue preservation requirements are designed to prevent a party from “sandbagging.” *Polkton Charter Twp v Pellegrom*, 265 Mich App 88, 95; 693 NW2d 170 (2005). In order to succeed on appeal, the appellant must address the basis of the trial court’s decision. *Derderian v Genesys Health Care Sys*, 263 Mich App 364, 381; 689 NW2d 145 (2004). The reasons why such arguments *should not* be considered on appeal were explained in *Estate of Quirk v Commissioner*, 928 F2d 751, 758 (6th Cir 1991):

Propounding new arguments on appeal ... [that were] never considered by the trial court ... is not only somewhat devious, it undermines important judicial values. The rule disciplines and preserves the respective functions of the trial and appellate courts. If the rule were otherwise, we would be usurping the role of the first-level trial court with respect to the newly raised issue rather than reviewing the trial court's actions. By thus obliterating any application of a standard of review, which may be more stringent than a *de novo* consideration of the issue, the parties could affect their chances of victory merely by calculating at which level to better pursue their theory. Moreover, the opposing party would be effectively denied appellate review of the newly addressed issue.... In order to preserve the integrity of the appellate structure, we should not be considered a

“second shot” forum, a forum where secondary, back-up theories may be mounted for the first time.

Although Plaintiff claims that some of her arguments were preserved “in her 5-17-13 Motion for Reconsideration” (Appellant’s Brief, p 39), the Register of Actions contains no reference to any such motion having been filed in this case. (Ex. D attached to Appellant’s Brief, p 2.) Moreover, “[w]here an issue is first presented in a motion for reconsideration, it is not properly preserved.” *Vushaj v Farm Bureau Gen Ins Co of Michigan*, 284 Mich App 513, 519; 773 NW2d 758 (2009).

Apart from being a proper sanction for Plaintiff’s discovery violations, the dismissal of this suit fell squarely within the Circuit Court’s authority under MCL 600.611, which states that “[c]ircuit courts have jurisdiction and power to make any order proper to fully effectuate the circuit courts’ jurisdiction and judgments.” Dismissing the case, in light of Plaintiff’s conduct, also fell squarely within the Circuit Court’s broad inherent authority, as recognized by the Supreme Court in *Dep’t of Env’tl Quality v Rexair, Inc*, 482 Mich 1009; 761 NW2d 91 (2008) and *Oram v Oram*, 480 Mich 1163, 1164; 746 NW2d 865 (2008) (“Trial courts possess inherent authority to sanction litigants and their attorneys, including the power to dismiss a case.”). See also *Anway v Grand Rapids R Co*, 211 Mich 592, 603, 622; 179 NW 350 (1920), where the Court observed that the power “to enter a final judgment and enforce such judgment by process, [is] an essential element of the judicial power....” Additionally, in *Underwood v McDuffee*, 15 Mich 361, 368 (1867), the Court held: “It is the inherent authority not only to decide, but to make binding orders or judgments, which constitutes judicial power....”

CONCLUSION AND RELIEF REQUESTED

There is no dispute that Defendants were entitled to the authorizations requested. Plaintiff placed her medical condition into controversy by filing this personal injury action. As the Supreme Court noted in *Domako, supra* at 354-355, it would have been manifestly unfair to allow Plaintiff to use her medical privacy as a shield. Additionally, Plaintiff's Brief on Appeal does not cite a single precedent from this Court or the Michigan Supreme Court. "It is not enough for an appellant in his brief simply to announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority either to sustain or reject his position. The appellant himself must first adequately prime the pump; only then does the appellate well begin to flow." *Mudge v Macomb County*, 458 Mich 87, 105; 580 NW2d 845 (1998) (citations omitted).

As an intermediate appellate court, the principal function of this Court of Appeals is to correct errors made by lower courts. *Halbert v Michigan*, 545 US 605, 617 n 3; 125 S Ct 2582 (2005). "If appellate review is to be meaningful, it must fulfill its basic historic function of correcting error in the trial court proceedings." *Barclay v Fla*, 463 US 939, 989; 103 S Ct 3418 (1983) (Marshall, J., dissenting). Since Plaintiff has not cited any precedent contrary to the trial court's decision, it is impossible for her to say that the trial court erred. Error by the trial court is the *sine qua non* of intermediate appellate review, and Plaintiff has not cogently identified any. For these reasons, this Court should affirm the Circuit Court in all respects.

SECRET WARDLE

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Dated: January 9, 2014

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EXHIBIT

1

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REGISTER OF ACTIONS
CASE NO. 11-014149-NF

RELATED CASE INFORMATION

Related Cases

13-000652-NI (Prior Action)

PARTY INFORMATION

Party	Name	Lead Attorneys
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Defendant	Culpert, Kevin Thomas	Ahmed M. Hassouna Retained (248) 764-1210(W)
Defendant	MEEMIC INSURANCE COMPANY	Simeon R. Orlowski Retained (248) 641-3892(W)
Plaintiff	FILAS, TAMARA	Terry L. Cochran Retained (734) 425-2400(W)

EVENTS & ORDERS OF THE COURT

Date	Event
	OTHER EVENTS AND HEARINGS
11/15/2011	Case Filing Fee - Paid \$150.00 Fee Paid (Clerk: Taylor,L)
11/15/2011	Service Review Scheduled (Due Date: 02/14/2012) (Clerk: Taylor,L)
11/15/2011	Status Conference Scheduled (Clerk: Taylor,L)
11/15/2011	Complaint, Filed (Clerk: Taylor,L)
11/15/2011	Jury Demand Filed & Fee Paid \$85.00 (Clerk: Taylor,L)
12/16/2011	Service of Complaint, filed (Clerk: Allen,L)
12/16/2011	Service of Complaint, filed (Clerk: Allen,L)
01/05/2012	Appearance of Attorney, Filed (Clerk: Allen,L)
01/05/2012	Answer to Complaint, Filed Proof of Service, Filed; Reliance on Jury Demand, Filed; Affirmative Defenses, Filed (Clerk: Allen,L)
01/05/2012	Response to Request for Admissions, Filed (Clerk: Allen,L)
01/26/2012	Answer to Complaint, Filed Proof of Service, Filed; Reliance on Jury Demand, Filed; Affirmative Defenses, Filed (Clerk: Allen,L)
01/26/2012	Witness List, Filed Proof of Service, Filed/EXHIBIT LIST (Clerk: Bynum,D)
01/26/2012	Response to Request for Admissions, Filed (Clerk: Bynum,D)
01/26/2012	Proof of Service, Filed (Clerk: Bynum,D)
02/14/2012	Status Conference (9:30 AM) (Judicial Officer Borman, Susan D.) Result: Held
02/14/2012	Status Conference Scheduling Order, Signed and Filed (Judicial Officer: Borman, Susan D.) s/c 8-14, w/l 4-17, disc 6-17, ce 7-9, 2nd s/c 8-20 (Clerk: Smith,P)
02/15/2012	Settlement Conference Scheduled (Clerk: Fowler,R)
03/22/2012	Motion to Compel Answers to Interrogatories, Filed Fee: \$20.00 Paid; Brief, Filed; Proof of Service, Filed; Notice of Hearing, Filed (Clerk: Smith,L)
04/12/2012	Motion And/Or Praeipce Dismissed (Judicial Officer: Borman, Susan D.) per Michelle f's mtn to compel (Clerk: Smith,P)
04/13/2012	CANCELED Motion Hearing (10:30 AM) (Judicial Officer Borman, Susan D.) Dismiss Hearing or Injunction Dismiss Hearing or Injunction
04/17/2012	Witness List, Filed Proof of Service, Filed (Clerk: Allen,L)
04/20/2012	Witness List, Filed

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(Clerk: Smith,L)
06/01/2012 **Motion to Extend Time, Filed**
Fee: \$20.00 Paid; Brief, Filed; Proof of Service, Filed; Notice of Hearing, Filed (Clerk: Boguslaski,C)

06/11/2012 **Witness List, Filed**
Certificate of Service, Filed Supplemental (Clerk: Smith,L)

06/13/2012 **Motion Hearing (10:30 AM)** (Judicial Officer Borman, Susan D.)
df mtn to adjourn dates
Result: Held

06/13/2012 **Order Adjourning Settlement Conference, Signed and Filed** (Judicial Officer: Borman, Susan D.)
(Clerk: Smith,P)

07/10/2012 **Motion to Withdraw as Attorney, Filed**
Fee: \$20.00 Paid; Brief, Filed; Proof of Service, Filed; Notice of Hearing, Filed (Clerk: Corder,S)

07/11/2012 **Motion to Adjourn, Filed**
Fee: \$20.00 Paid; Brief, Filed; Proof of Service, Filed; Notice of Hearing, Filed (Clerk: Harrison,S)

07/12/2012 **Motion Received for Scheduling** (Judicial Officer: Borman, Susan D.)
Plaintiff/Attorney Terry L. Cochran (Clerk: Roberts,B)

07/19/2012 **Answer to Motion, Filed**
(Clerk: Allen,L)

07/19/2012 **Answer to Motion, Filed**
(Clerk: Allen,L)

07/20/2012 **Case Evaluation - General Civil**
O.d. on 7/20 by Judge Borman. sm (reset from: 7/11 to Aug per e/m on 6/13. sm (Clerk: Fowler,R) (Complete Date: 07/20/2012)

07/20/2012 **Motion Hearing (9:00 AM)** (Judicial Officer Borman, Susan D.)
Plaintiff/Attorney Terry L. Cochran -- First Adjournment of Trial
Result: Held

07/20/2012 **Motion Hearing (9:00 AM)** (Judicial Officer Borman, Susan D.)
Plaintiff/Attorney Terry L. Cochran -- A Protective Order
Result: Held

07/20/2012 **Motion Hearing (9:00 AM)** (Judicial Officer Borman, Susan D.)
Plaintiff/Attorney Terry L. Cochran -- Extend Discovery For 90 Days
Result: Motion and/or Praecepte Dismissed

07/20/2012 **Injunctive/Restraining Order, Signed and Filed** (Judicial Officer: Borman, Susan D.)
protective order Re: production medical, employment, etc (Clerk: Smith,P)

07/20/2012 **Motion And/Or Praecepte Dismissed** (Judicial Officer: Borman, Susan D.)
pl mtn to extend discovery (Clerk: Smith,P)

08/10/2012 **Motion to Vacate Order, Filed**
Fee: \$20.00 PAID BRIEF,PROOF, NOTICE (Clerk: Oliver,P)

08/14/2012 **Notice of Hearing, Filed**
Renotice; mot to vacate; Prf (Clerk: Rutledge,L)

08/17/2012 **Motion to Withdraw as Attorney, Filed**
Fee: \$20.00 Paid; Brief, Filed; Proof of Service, Filed; Notice of Hearing, Filed (Clerk: Taylor,L)

08/20/2012 **Answer to Motion, Filed**
(Clerk: Allen,L)

08/20/2012 **Answer to Motion, Filed**
(Clerk: Allen,L)

08/22/2012 **Closed/Final - Order of Dismissal, Signed and Filed** (Judicial Officer: Borman, Susan D.)
w/o prejudice & w/o costs (Clerk: Smith,P)

08/24/2012 **Miscellaneous Motion, Filed-WVD**
Fee: \$20.00 Paid; Brief, Filed; Proof of Service, Filed; Notice of Hearing, Filed (Clerk: Corder,S)

08/24/2012 **Miscellaneous Motion, Filed**
MOTION TO CLARIFY Fee: \$20.00 Paid; Brief, Filed; Proof of Service, Filed; Notice of Hearing, Filed (Clerk: Corder,S)

08/28/2012 **Brief in Opposition to Motion, Filed**
(Clerk: Tyler,F)

08/28/2012 **Brief in Opposition to Motion, Filed**
(Clerk: Tyler,F)

08/31/2012 **CANCELED Motion Hearing (9:00 AM)** (Judicial Officer Borman, Susan D.)
Case Disposed/Order Previously Entered
pl mtn to vacate order adj per Tamara
Case Disposed/Order Previously Entered
08/24/2012 Reset by Court to 08/31/2012

08/31/2012 **CANCELED Motion Hearing (9:00 AM)** (Judicial Officer Borman, Susan D.)
Case Disposed/Order Previously Entered
pl mtn to withdraw
Case Disposed/Order Previously Entered

08/31/2012 **Notice of Hearing, Filed**
(Clerk: Tyler,F)

09/07/2012 **Answer to Motion, Filed**
(Clerk: Tyler,F)

09/07/2012 **Answer to Motion, Filed**
(Clerk: Tyler,F)

09/12/2012 **Miscellaneous Response, Filed**
(Clerk: Tyler,F)

09/12/2012 **Miscellaneous Response, Filed**
(Clerk: Tyler,F)

09/13/2012 **CANCELED Settlement Conference (9:30 AM)** (Judicial Officer Borman, Susan D.)
Case Disposed/Order Previously Entered
w/1 4-17, disc 7-22, ce 8-6, 2nd s/c 9-17
Case Disposed/Order Previously Entered
08/14/2012 Reset by Court to 09/13/2012

09/14/2012 **Motion Hearing (9:00 AM)** (Judicial Officer Borman, Susan D.)
pl's mtn to withdraw
08/30/2012 Reset by Court to 09/14/2012
Result: Held

09/14/2012 **Motion Hearing (9:00 AM)** (Judicial Officer Borman, Susan D.)
pl's mtn for continuance

08/30/2012 *Reset by Court to 09/14/2012*

- 09/14/2012 **Result: Motion and/or Praeipe Dismissed**
Motion And/Or Praeipe Dismissed (Judicial Officer: Borman, Susan D.)
(Clerk: *Smith,P*)
- 09/14/2012 **Motion to Withdraw as Attorney Granted, Order to Follow** (Judicial Officer: Borman, Susan D.)
(Clerk: *Smith,P*)
- 09/14/2012 **Motion Denied, Order to Follow** (Judicial Officer: Borman, Susan D.)
denied mtn to vacate dismissal (Clerk: Smith,P)
- 09/19/2012 **Order Denying, Signed and Filed**
(Clerk: *Tyler,F*)
- 09/19/2012 **Order Granting Motion, Signed and Filed**
(Clerk: *Tyler,F*)
- 04/24/2013 **Notice of Hearing, Filed**
(Clerk: *Tyler,F*)

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