

STATE OF MICHIGAN
IN THE MICHIGAN COURT OF APPEALS

TAMARA FILAS,

Plaintiff-Appellant,

vs.

Court of Appeals Case No. 317972
Lower Court Case No. 13-000652-NI
Honorable Susan D. Borman

KEVIN THOMAS CULPERT and
EFFICIENT DESIGN, INC. a
Michigan Corporation,

Defendants-Appellees.

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**DEFENDANT-APPELLEE EFFICIENT DESIGN, INC.'S, ANSWER TO CO-
DEFENDANT'S MOTION TO AFFIRM AND REQUEST FOR CONSISTENT RELIEF**

Defendant-Appellee Efficient Design, Inc., ("Efficient"), by and through its attorneys and for its Answer to Co-Defendant's Motion to Affirm and Request for Consistent Relief, states as follows:

1. Admitted and agreed.
2. Admitted and agreed.

3. Admitted and agreed.
4. Admitted and agreed.
5. Admitted and agreed.
6. Admitted and agreed.
7. Admitted and agreed.

WHEREFORE, Defendant-Appellee Efficient Design, Inc., requests that this Honorable Court grant Co-Defendant's motion and, further, grant it the same relief of dismissing Plaintiff's appeal, with prejudice.

VANDEVEER GARZIA, P.C.

/s/ Michael C. O'Malley
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**DEFENDANT-APPELLEE EFFICIENT DESIGN, INC.'S, BRIEF IN SUPPORT OF
THE ANSWER TO CO-DEFENDANT'S MOTION TO AFFIRM AND REQUEST FOR
CONSISTENT RELIEF**

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STATEMENT OF JURISDICTION

Jurisdiction is proper in this Court, pursuant to MCR 7.203(A).

STATEMENT OF QUESTIONS INVOLVED

Defendant-Appellee Efficient Design, Inc. concurs in the Counter-Statement of Questions Involved put forth by Co-Defendant-Appellee, Kevin Culpert. Efficient Design, Inc., agrees that the dismissal was proper.

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VANDEVEER GARZIA P. C.

SUPPLEMENTAL COUNTER-STATEMENT OF FACTS AND PROCEEDINGS

Plaintiff/Appellant's "Statement of Facts" fails to meet the requirements of MCR 7.212(C)(6), in that she does not put forth all material facts, she fails to cite specific page references to the transcript, pleadings, or other documents, and she fails to present her "facts" without bias or argument. Defendant/Appellee, Efficient Design, Inc. ("Efficient"), agrees with and concurs in the narrative of facts as put forth by Co-Defendant/Appellee, Thomas K. Culpert ("Culpert").

In addition to those facts recited by Culpert, Efficient would point to the following as relevant to the issues in this Motion and Appeal and/or as clarification of the representations of Plaintiff. First, it is undisputed that the underlying suit is for personal injury allegedly suffered in an automobile accident that occurred on January 15, 2010. (See Complaint). It is undisputed that Plaintiff filed a prior suit, which was dismissed without prejudice. It is undisputed among the parties that the present action was filed on Plaintiff's behalf by attorney Daryle Salisbury on January 14, 2013. (See Summons). In the Complaint, Plaintiff alleged she was injured as a result of the negligence of Culpert, who she claims was in the course and scope of his employment with Efficient by talking on the telephone at 7:29 a.m. (See Complaint at ¶¶ 3-5, 10-13). Plaintiff put her medical condition at issue in this case when she alleged injury to "her head, neck, back and other parts and portions of her body". (See Complaint at ¶ 14.a.).

After the inception of the case, and after initial discovery requests were served upon attorney Salisbury, Plaintiff discharged her attorney and filed an appearance on March 11, 2013. (See March 11, 2013, Appearance, attached as **Exhibit 1**). Attached to her appearance, Plaintiff supplied "Exhibit A", a copy of correspondence to Daryle

Salisbury discharging him from service. (Exhibit A to Plaintiff's March 11, 2013, Appearance). Relevant to the issues on appeal, Plaintiff referenced a request for the return of "the two binders [Plaintiff provided her counsel] (MEEMIC records and medical records)"; evidencing that Plaintiff-Appellant was in possession of her medical records. (See **Exhibit 1**). Eventually, Mr. Salisbury was dismissed via Order (consistent with the Court Rules) on May 3, 2013; at which time the discovery was stayed to allow Plaintiff to retain new counsel. (See May 3, 2013, Order of trial court).

Prior to the May 2, 2013, status conference hearing, co-counsel for Efficient filed a Motion to Compel Discovery. (See **Exhibit 2** – April 30, 2013, Motion to Compel Discovery from Plaintiff, with exhibits). Included as an exhibit to the motion was a copy of Efficient's February 7, 2013, discovery requests. Included in the discovery was a request for Plaintiff to sign medical authorizations. (**Exhibit 2**, Interrogatory No. 49). Specifically, the request inquires whether Plaintiff would sign medical and employment authorizations without the necessity of a motion.

Plaintiff filed an Answer to Efficient's motion on June 18, 2013. (See **Exhibit 3** – Plaintiff's Answer to Defendant Efficient Design's Motion to Compel Discovery from Plaintiff). In the first paragraph, Plaintiff asks that the trial court "require ... [Efficient], show cause before requesting Plaintiff to produce her medical records." (**Exhibit 3**, p. 1). Consistently, Plaintiff argued in her Answer that "until it is established through discovery that Efficient Design is liable for harm caused by Kevin Culpert while in the course and scope of his employment, Plaintiff should not be required to release her medical information to Defendant, Efficient Design, Inc." (**Exhibit 3**, p. 2). She continued with the argument, stating "Plaintiff does not believe it is reasonable for the Court to require her to provide medical records to Efficient Design, Inc. a party that has

not yet admitted any responsibility in the case.” (Exhibit 3, p. 3).

While not part of the record in this case, Plaintiff appears to have made similar arguments in her suit for no-fault benefits, as well. (Hearing transcript of June 21, 2013, at p. 6 In 20-23, p. 7 In 13-17). During oral argument on Efficient’s Motion to Compel, Plaintiff continued her argument that she was not obliged to provide medical records to Efficient unless or until Efficient Design admitted liability in this matter. (Hearing transcript of June 21, 2013, at pp. 6-7 In 24-3, p. 7 In 6-17, In 22-23).

Plaintiff represents in her Brief on Appeal that she “was denied due process when Judge Borman granted [Efficient’s] Motion to Dismiss on June 24, 2013 at a “special conference” without notification to Plaintiff-Appellant the “Special Conference” was being held on June 24, 2013”. (Plaintiff-Appellant’s Brief on Appeal at p. 5). This representation is not accurate. During the June 21, 2013, the trial court stated “I will adjourn this until Monday.” (Hearing transcript of June 21, 2013, at p. 8 In 12-13). The trial court reiterated: “[i]f he does not get those authorizations by Monday or you can come back Monday at 2 o’clock, and you can come back with the authorizations. No game playing, Ms. Filas.” (Id at In 15-18). After further discussion, the trial court again stated, “... I’ll see you Monday.” (Hearing transcript of June 21, 2013, at p. 12, In 6).

Relevant to Efficient Design’s position, counsel for Efficient requested that the court order that “there can be no amendments to the authorizations”. (Hearing transcript of June 21, 2013, at p. 14, In 5-6). The trial court granted the request and explained to the parties, “I said to Ms. Filas no game playing, no alterations, okay.” (Id at In 11-12). In a related motion, heard the same day, Plaintiff agreed to accept return of prior discovery from a prior lawsuit via e-mail. (Hearing transcript of June 21, 2013, at p. 16, In 16-21). Off record, it was agreed that the authorizations would be emailed,

a fact Plaintiff references in her Brief.

Plaintiff did not appear for the June 24, 2013, hearing. Despite Plaintiff submitting some authorizations, it is undisputed that Plaintiff did not provide all authorizations that had been requested and did not provide the authority supplied by counsel for Efficient. (Hearing transcript of June 24, 2013, at p. 3, ln 16-24). The trial court then dismissed Plaintiff's case, but directed that the order be submitted electronically and that it shall not be effective until July 1, 2013, to allow Plaintiff time to file objections. (Hearing transcript of June 24, 2013, at p. 6, ln 1-6). The Order was presented to the Court's e-filing system on June 24, 2013, and accepted for filing on June 25, 2013. Plaintiff claims she just did not check her email until after the Order was entered. (Plaintiff's Appellant Brief on Appeal, *passim*.)

Plaintiff filed objections on July 2, 2013. Relevant to the issues in this appeal, Plaintiff argued that she "provided her e-mail address to Mr. Wright, attorney for Defendant Efficient Design, so he could e-mail the authorization forms to her later that day." (Plaintiff's Objection to Defendant Efficient Design Inc.'s Proposed Order of Dismissal Without Prejudice, dated July 2, 2013, at p. 3, ¶ 8). It is indisputable that no specific time was directed by the Court or discussed on the record. Plaintiff argued that she did not have to sign the authorizations provided by counsel because she had not received them in her e-mail inbox by 5:00 pm on June 21, 2013. (*Id* at p. 4, ¶ 10). At that time, Plaintiff "decided it would be foolish to count on [counsel] to provide the forms necessary" and decided to obtain and prepare her own authorizations. (*Id* at ¶¶ 11, 12). Throughout her Objection filing, Plaintiff conceded knowledge of the 2:00 pm, June 24, deadline. (*Id.*, *passim*). Plaintiff does not dispute that she did not check her e-mail, again, throughout the weekend of June 22-23, 2013 for the required

authorizations. Plaintiff argued that she did not need to sign the authorizations provided by counsel because an alleged failure to “meet [the] obligations of getting the e-mailed forms to her before the close of the business day on Friday, June 21, 2013, as promised.” (Id at p. 7, ¶20).

In the Objection and the subsequently filed Reply to Plaintiff’s Objection (filed on August 7, 2013), Plaintiff admitted to having received the authorizations; but not having checked her e-mail after 5:00 pm on June 21, 2013. In her Reply, Plaintiff admitted that she used her own authorizations and “tried to include every record that the Defendant was entitled to under the no-fault law.” (August 7, 2013, Reply to Plaintiff’s Objections, at p. 8, ¶17). Counsel for Efficient explained during the June 21 hearing that authorizations were not immediately available for all providers because Plaintiff had only identified her, approximately 27, providers earlier in the morning on June 21. (Hearing transcript of June 21, 2013, at p. 6, ln 12-19). Plaintiff added objections to the production of “new” medical providers because they had not been specifically requested in the original discovery requests. (Plaintiff’s Reply to Objection, at pp. 9-11, ¶¶ 20-25). Despite the trial court’s directive to the contrary, Plaintiff, again, objected that she “contends she should not have to provide records beyond the medical records ordered to be provided at the 6-21-13 hearing, until it has been determined whether or not Kevin Culpert was in the scope of his employment, and that Efficient Design would therefore be liable for damages to the Plaintiff.” (Id. at p. 10, ¶ 23).

Counsel for Efficient filed a Response to Plaintiff’s Objection on July 16, 2013. Attached to the Response, as Exhibit B, was a copy of an e-mail from June 21, 2013, showing that the authorizations had been sent by 5:06 pm and that the authorizations had been received by 5:25 pm (although the receipt notification had not been sent).

(See Exhibit B to Efficient Design's Response to Plaintiff's Objection, dated July 16, 2013, attached as **Exhibit 5**). Plaintiff does not deny that the requested authorizations were supplied, only that she did not get them because she did not check her e-mail after 5:00 pm on June 21, 2013.

It is undisputed, and not mentioned by Plaintiff, that she had more opportunities to provide the requested authorizations. Plaintiff admits she was in possession of the requested authorizations by June 24, 2013. Plaintiff appeared for the hearing on her Objections on August 9, 2013, where the trial court gave her another opportunity to comply with her directive on discovery. The trial court was very specific during the hearing, giving Plaintiff every opportunity to sign the authorizations and have her case reinstated. Despite multiple opportunities to comply with the trial court, Plaintiff refused to sign the authorizations and her case was dismissed. The exchange went as follows:

THE COURT: Okay, Ms. Filas, 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.

MS. FILAS: I have a problem with some of the clauses.

THE COURT: All right, I've already ruled on that. I'm not going to go back to that. You've changed them. You got it changed to different forms. They've got the authorizations today. Last chance. Sit down and sign the authorizations. I'll reinstate your case, otherwise I'm dismissing this case.

MS. FILAS: I have some problems with some of the clauses they're asking for in the forms.

THE COURT: I'm sorry. We've already done this. I'm not reconsidering it, so sit down today and sign the authorizations.

MS. FILAS: Not for some of the things that they're asking.

THE COURT: The dismissal stands. Call the next case.

(Hearing transcript of August 9, 2013, at pp. 3-4).

Based upon Plaintiff's refusal to comply with the trial court's orders, the court refused to rescind the dismissal and this appeal followed.

STANDARD OF REVIEW

A trial court's findings of fact in a discovery dispute are reviewed for clear error. *Traxler v Ford Motor Co.*, 227 Mich App 276, 282 (1998). This Court is to review a trial court's decision to assess discovery sanctions for an abuse of discretion. *Id* at 286. An abuse of discretion occurs when the decision of the trial court results in an outcome falling outside the range of reasonable and principled outcomes. *Maldonado v Ford Motor Company*, 476 Mich 372, 388 (2006).

LAW AND ARGUMENT

Plaintiff attempts to make this an issue of form over substance. In her Brief on Appeal, the argument is that this is a “battle of the forms” (whereas Plaintiff/Appellant chose a SCAO form over signing authorizations provided by counsel for the Defendant-Appellee). This is a case of form-over-substance, contrary to what Plaintiff-Appellant would lead this Court to believe. This is a case of Plaintiff blatantly disregarding the authority of the trial court regarding its decisions on discovery issues. Plaintiff has continually attempted to obstruct the discovery process, throughout the case. From the outset, Plaintiff has refused to provide open access to her medical, employment, and insurance records based upon her perception that she is entitled to privacy. As the record reveals, Plaintiff has continually disregarded the trial court’s directive based upon her misguided attempts to control the course of discovery. To the last, Plaintiff refused the trial court’s offer to reinstate her case if she were to simply sign the provided releases. Instead, Plaintiff, for the final time refused to sign the proffered medical authorizations due to complaints about the release. Plaintiff’s case was not dismissed due to the choice of forms. Her Complaint was dismissed for her willful refusal to follow the orders of the trial court and engage in the discovery process. This Court should uphold the decision.

- I. **Plaintiff-Appellant has failed to provide any citation to the record or applicable law in support of her Appeal. This Court should affirm the dismissal due to Plaintiff’s failure to perfect her appeal.**

Part of the reason Plaintiff-Appellant’s case was dismissed by the trial court is her refusal to follow the Court Rules; a pattern she continues in her appellate filings. Plaintiff-Appellant’s “Statement of Facts” is wanting for reference or citation to the record, as required by MCR 7.212(C)(6). ¶ “A statement of facts ... must contain, with

specific page references to the transcript, the pleadings, or other document or paper filed with the trial court”.] Her “facts” are nothing more than her recollection and perception of events. Many of her alleged “facts” are patently false or misleading; as outlined above. Similarly, Plaintiff’s Brief is devoid of cogent analysis, almost no citation to supporting authority, and no applicable standard of review. An issue is abandoned where plaintiff fails to properly argue the merits of the issues. See generally *Yee v Shiawassee Co Bd of Comm’rs*, 251 Mich App 379, 406 (2002). An appellant may not merely assert an error and leave it to the appellate court to search for authority to sustain or reject this position. *Wilson v Taylor*, 457 Mich 232, 243 (1998). Similarly, a party may not give issues cursory treatment with little or no citation to supporting authority. *Silver Creek Twp v Corso*, 246 Mich App 94, 99 (2001).

In the present matter, Plaintiff makes bold allegations that the trial court erred by requiring her “to provide her medical records to Efficient Design without establishing that they were a liable party to the case.” (Plaintiff’s Brief at p. 19) [underscore in original]. Plaintiff cites no court rule, statute or case law supporting this proposition.¹ Instead, she relies exclusively on rhetoric. Plaintiff-Appellant’s argument continues that she is not required to provide discovery until she receives her own discovery responses and is satisfied that she has a valid claim against Efficient. (Plaintiff’s Brief, *passim*). Meanwhile, the Court Rules provide that Efficient is fully within its rights to seek Plaintiff’s medical records (MCR 2.314(A)(1)). Moreover, Plaintiff cannot stall Defendants’ discovery while she attempts to engage in her own. MCR 2.302(D). [The fact a party is conducting discovery does not operate to delay another party’s

¹ Unfortunately, Defendant-Appellee is unable to provide citations beyond the Court Rules; mostly because Plaintiff’s position is, simply, unsupported by law. It is nearly impossible to find case law on baseless positions. Liability is one issue that is addressed during discovery, along with issues of damages.

discovery].

While Plaintiff does, in fact, cite a Court Rule relating to the use of SCAO forms for the release of medical information; she provides no authority to allow her to refuse to sign authorizations or limit the information sought. (See Plaintiff's Brief, *passim*). The crux of Plaintiff's argument is that she supplied authorizations she deemed appropriate and, therefore, her case cannot be dismissed. What Plaintiff does not address, however, is the fact that she did not provide all of the authorizations requested, she served the authorizations upon her medical providers directly, and she limited the information to that which she deemed to be relevant. (**Exhibit 5**, attachment B showing Plaintiff-Appellant's "releases" with specified dates of service identified).

Even on appeal, Plaintiff-Appellant maintains her argument, without citation or support, that a party "is justified in refusing to agree to additional language and/or missing information on a medical or employment authorization form ... (i.e. allowance of photocopies, use of an expiration event instead of a date, allowance of records to be released "for copying purposes")." (Plaintiff's Brief at p. 32, Heading 6). Plaintiff-Appellant's position is clear from the filings in this Court and in the trial court: she had no intention of allowing a full and complete release of her records for purposes of discovery. Plaintiff has failed to cite any statute or other authority for her position.

Based upon the failure to cite applicable authority, the dismissal should be affirmed.

II. The trial court properly dismissed Plaintiff-Appellant's Complaint for her willful refusal to comply with discovery and the orders of the court.

Plaintiff filed this auto negligence suit claiming that she has suffered personal

injury out of the alleged negligence of Co-Defendant-Appellee, Kevin Culpert (“Culpert”). In her Complaint, Plaintiff alleged that this Defendant, Efficient Design, Inc. (“Efficient”) was his employer. Plaintiff alleged that Culpert was on a work related call at the time of the rear-end collision. As a result, Plaintiff allegedly suffered “injuries to her head, neck, back and other parts and portions of her body”, resulting in pain, suffering, work loss, and loss of earning capacity; some of which is permanent in nature. (See Complaint at Para. 14). As such, Plaintiff has put her physical and mental condition at issue.

The applicable law is simple: Michigan has “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 (1998). The “discovery rules are to be construed ... to further the ends of justice.” *Domako v Rowe*, 438 Mich 347, 359 (1990), *citing Prentis v Yale Mfg Co*, 421 Mich 670 (1984). The adoption of the Michigan Court Rules in 1985 eliminated any “good cause” requirement for the production of documents. *Domako* at 360, n10. Contrary to Plaintiff’s hyper-technical argument on appeal that she is not obliged to sign additional authorizations because Efficient originally asked for fewer providers, the Supreme Court has stated:

Restricting parties to formal methods of discovery would not aid in the search for truth, and it would only serve to complicate trial preparation. MCR 1.105 expressly states that the court rules are “to be construed to secure the just, speedy, and economical determination of every action” *Domako* at 360.

It became clear as the case progressed, evidenced by Plaintiff-Appellant’s filings and statements during oral arguments, that Plaintiff intended to take every effort to preclude discovery of medical and employment information. At the outset of the case,

counsel for both defendants served various discovery requests. Shortly thereafter, Plaintiff discharged her attorney and Plaintiff undertook the prosecution of her own case. At that time, Plaintiff-Appellant began to assert her continuing objections to the production of medical records. Again, the issue in this case is not the format of the medical authorizations, but the fact that Plaintiff continually refused to produce open access to her medical records; as required by the Court Rules.

A review of the hearing transcripts shows that Plaintiff never objected to the form of the releases produced by Efficient's attorneys (at least not until her case had been dismissed). Her objections were that she was not required to produce her medical records to a defendant where "they haven't admitted any liability." (Hearing transcript of June 21, 2013, at p. 7, In 11-12). Plaintiff-Appellant's protestations are indicative of her efforts to subvert the discovery process. A reading of the record shows Plaintiff continually objects to the production of *any* records to Efficient. It became clear to all involved that Plaintiff-Appellant's motivation was to manipulate the process; and to potentially "cherry-pick" the records. The clear attempts by Plaintiff to avoid the production of records is why Efficient's attorneys asked that the trial court order her to sign *their* authorizations with "no amendments". (Hearing transcript of June 21, 2013, at p. 14, In 4-6).

Plaintiff-Appellant does not address the fact that she was ordered to sign all of the authorizations presented to her. The trial court was very clear in the process:

THE COURT: We're going to give her the authorizations. She's going to sign them. Either she signs them or she doesn't sign them. I said to Ms. Filas no game playing, no alterations, okay.

(Hearing transcript of June 21, 2013, at p. 14, In 9-12).

Despite the trial court's clear directive, Plaintiff refused to sign the authorizations

and, instead, provided her own and sent them directly to her healthcare providers. (**Exhibit 5**, attachment B showing Plaintiff-Appellant's "releases" with specified dates of service identified).

In response to the dismissal, and continuing on appeal, Plaintiff-Appellant argues that she did not receive the authorizations from Efficient and was 'forced' to handle things on her own. Plaintiff-Appellant's argument overlooks the fact that Efficient's attorney did e-mail all of the requested authorizations to Plaintiff on June 21, as agreed. She cites no rule that she is not obliged to check her e-mail beyond 5:00 pm. She cites no valid reason why she could not check her e-mail on Monday, June 24, after the start of business hours. She provides no excuse as to why she could not have called counsel later in the afternoon to check on the status of the releases; if she truly was worried about complying with the trial court, as she claims. Similarly, Plaintiff gives no valid reason why she did not sign the proffered authorizations between the admitted receipt on June 24, 2013, and the hearing on her motion to reinstate the case on August 9, 2013.

At its core, Plaintiff's argument is, 'I complied with discovery; but she really has not. From the inception, Plaintiff has refused to allow open discovery and, instead, attempts to manipulate the process. Plaintiff-Appellant's filings and her actions show that she has intended to avoid producing medical records until she was satisfied that they were relevant. There is no basis in the law for this position. The trial court was aware of this and, after giving the Plaintiff-Appellant multiple opportunities to comply with her directives, eventually dismissed her case.

The imposition of discovery sanctions is reviewed for an abuse of discretion. *Bass v Combs*, 238 Mich App 16, 26 (1999), *overruled on other grounds Dimmitt &*

Owens Fin, Inc v Deloitte & Touche, LLC, 481 Mich 618 (2008). A trial court may impose the sanction of dismissal for discovery abuse. *Id.* The trial court is to be given regard for the special opportunity it has to judge the credibility of witnesses who appear before it. MCR 2.613(C). An abuse of discretion occurs when the decision of the trial court results in an outcome falling outside the range of reasonable and principled outcomes. *Maldonado v Ford Motor Company*, 476 Mich 372, 388 (2006). Further, the trial court has inherent authority to dismiss a lawsuit as a sanction for litigant misconduct. *Bloemendaal v Town & Country Spts Ctr, Inc.*, 255 Mich App 207, 211 (2003).

MCR 2.313(B)(2)(c) allows trial courts to enter “an order ... dismissing the action or proceeding” A panel of this Court has noted that dismissal is the harshest sanction available. *Schell v Baker Furniture Co*, 232 Mich App 470, 475 (1998). However, the imposition of the sanction is warranted where “there has been a flagrant and wanton refusal to facilitate discovery, and where the failure has been conscious or intentional, rather than accidental or involuntary.” *Frankenmuth Mut Ins Co v ACO, Inc.*, 193 Mich App 389, 396-397 (1992). Included in the factors that apply to dismissal are: 1) whether the violation was willful or accidental; 2) whether there exists a history of engaging in deliberate delay; 3) the degree of compliance by the party with other provisions of the court’s order; 4) an attempt to timely cure the defect; and 5) whether a lesser sanction would better serve the interests of justice. *Bass* at 26-27.

In the instant case, the record is clear that Plaintiff refused to obey the orders of the trial court. At every turn, the trial court gave the Plaintiff-Appellant the opportunity to sign the authorizations. To the last, Plaintiff argued that she did not have to sign the authorizations provided by Efficient’s attorneys, despite the fact that her related PIP

action was already dismissed for the same failure. There can be no question that Plaintiff's abject refusal to sign the required authorizations was deliberate. The record is clear that Plaintiff had been deliberately delaying discovery from the outset. At each occasion, Plaintiff objected to producing *any* documents until Efficient admitted liability.

The trial court required Plaintiff to sign the authorizations provided by Efficient on June 21, 2013. The trial court specifically said, "no games". Almost immediately, Plaintiff began 'playing games' with her "I didn't check my e-mail" or "I don't have to sign those releases, I'll sign my own". The releases were provided. Despite the trial court's direction, Plaintiff voluntarily chose not to appear on Monday, June 24th. Contrary to her arguments that she provided releases, Plaintiff did not provide all of the requested releases. In fact, she, again, attempted to change the release language to meet her own agenda and limit the scope of discovery. The trial court was very explicit: "We will provide releases ... she will sign them ...". She did not sign them (and now hides behind a façade that she was unable to check her e-mail).

Even after the dismissal, Plaintiff-Appellant had over 4 weeks to sign the provided authorizations and have her case reinstated. With ample time, Plaintiff-Appellant still refused any attempt to cure the defect. At the Eleventh Hour, after the dismissal, Plaintiff defiantly rejected the trial court's one last opportunity:

THE COURT: ... sit down today and sign the authorizations.
MS. FILAS: Not for some of the things that they're asking.
THE COURT: The dismissal stands. Call the next case.

(Hearing transcript of August 9, 2013, at p. 3, ln 2-7).

The record is clear: Plaintiff has flagrantly and defiantly ignored the directive of the trial court to provide medical authorizations. Discovery is open. Plaintiff-Appellant has refused to provide discovery; instead, demanding that she get her discovery on

liability before she disclosed her records. Plaintiff-Appellant made every effort to forestall discovery. She invented excuses and reasons why she should not have to comply with the rules. She ignored the directives of the trial court, which gave her ample opportunity to conform to the Court Rules and put her case back on track. Despite every effort of the trial court in this case, and in her PIP case, Plaintiff willfully ignored the directives of the court, she made no effort to cure the defects, and she defiantly refused to provide the discovery. No lesser sanction would be sufficient in this case. The dismissal was appropriate and this Court should affirm the dismissal.

CONCLUSION AND RELIEF REQUESTED

It is clear from her obstreperous behavior throughout the proceedings that Plaintiff had no intention of participating in the judicial process; at least not according to the rules. Plaintiff put her medical condition at issue in this matter. Despite the clear edict of the trial court that the Defendants were to have free access to her medical records, Plaintiff insisted that she must be in control and that she would be the ultimate arbiter of what would be divulged and when. While she would attempt to divert the Court's attention to the "form" of the releases provided, the "substance" of this dispute (which was well known to the trial court) was that the Plaintiff would not divulge the discoverable information freely. She took every opportunity to obstruct the process. Eventually, the trial court gave her a last chance: sign the releases that are presented to you or I dismiss your case. Despite the ultimatum, Plaintiff took one last stab at maintaining control, herself. She has now paid the price for her willful violation of the discovery rules and the orders of the trial court. This Honorable Court should certainly not reinstate the case, as it is clear that the pattern will continue.

For the foregoing reasons, Defendant-Appellee, Efficient Designs, Inc., requests

that this Honorable Court grant Co-Defendant's Motion to Affirm and award it the same relief: dismissal of Plaintiff's appeal, with prejudice.

VANDEVEER GARZIA, P.C.

/s/ Michael C. O'Malley
MICHAEL C. O'MALLEY (P59108)
JENNIFER L. MCGRATH (P75734)
Attorneys for Def Efficient Design
1450 W. Long Lake Road, Suite 100
Troy, MI 48098-6330
(248) 312-2800

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing was served upon the attorneys of record of all parties to the above cause by the court's e-filing and up Tamara Filas by regular mail on January 20, 2014. I declare under penalty of perjury that the statement above is true to the best of my information, knowledge and belief.

/s/Kimberly Coomer

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EXHIBIT 1

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

TAMARA FILAS,
Plaintiff,

Case No.: 13-000652-NI
Hon. Susan D. Borman

-vs-

KEVIN THOMAS CULPERT, AND
EFFICIENT DESIGN, INC., A Michigan
Corporation.

Defendant.

13-000652-NI
FILED IN MY OFFICE
WAYNE COUNTY CLERK
3/11/2013 9:02:06 AM
CATHY M. GARRETT

TAMARA FILAS Plaintiff 6477 Edgewood Rd. Canton, MI 48187 (734) 751-0103 e-mail redacted	MICHAEL C. O'MALLEY (P59108) Attorney for Defendant Efficient Design 1450 W. Long Lake Rd., Ste. 100 Troy, MI 48098 (248) 312-2940 momalley@vgpclaw.com
AHMED M. HASSOUNA (P67995) Attorney for Defendant Culpert 340 E. Big Beaver, Suite 250 Troy, MI 48083 (248) 764-1127 Ahmed_M_Hassouna@progressive.com	

NOTICE OF APPEARANCE

PLEASE TAKE NOTICE that pursuant to MCR 2.117(A)(1), the undersigned hereby gives notice that she is filing an Appearance.

/s/ TAMARA J. FILAS
6477 Edgewood
Canton, MI 48187
(734) 751-0103

Dated: March 11, 2013

e-mail redacted

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

TAMARA FILAS,

Case No.: 13-000652-NI

Hon. Susan D. Borman

Plaintiff,

-vs-

KEVIN THOMAS CULPERT, AND
EFFICIENT DESIGN, INC., A Michigan
Corporation.

Defendant.

TAMARA FILAS Plaintiff 6477 Edgewood Rd. Canton, MI 48187 (734) 751-0103 e-mail redacted	MICHAEL C. O'MALLEY (P59108) Attorney for Defendant Efficient Design 1450 W. Long Lake Rd., Ste. 100 Troy, MI 48098 (248) 312-2940 momalley@vgpclaw.com
AHMED M. HASSOUNA (P67995) Attorney for Defendant Culpert 340 E. Big Beaver, Suite 250 Troy, MI 48083 (248) 764-1127 Ahmed_M_Hassouna@progressive.com	

APPEARANCE

NOW COMES Tamara Filas, and hereby enters her Appearance. Her former attorney,
Daryle Salisbury, has been dismissed, as Exhibit A substantiates.

/s/ TAMARA J. FILAS
6477 Edgewood
Canton, MI 48187
(734) 751-0103

Dated: March 11, 2013

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

TAMARA FILAS,
Plaintiff,

Case No.: 13-000652-NI
Hon. Susan D. Borman

-vs-

KEVIN THOMAS CULPERT, AND
EFFICIENT DESIGN, INC., A Michigan
Corporation.

Defendant.

<p>TAMARA FILAS Plaintiff 6477 Edgewood Rd. Canton, MI 48187 (734) 751-0103 e-mail redacted</p>	<p>MICHAEL C. O'MALLEY (P59108) Attorney for Defendant Efficient Design 1450 W. Long Lake Rd., Ste. 100 Troy, MI 48098 (248) 312-2940 momalley@vgpclaw.com</p>
<p>AHMED M. HASSOUNA (P67995) Attorney for Defendant Culpert 340 E. Big Beaver, Suite 250 Troy, MI 48083 (248) 764-1127 Ahmed_M_Hassouna@progressive.com</p>	

CERTIFICATE OF SERVICE

I hereby certify that on March 11, 2013, I electronically filed the PLAINTIFF'S NOTICE OF APPEARANCE, APPEARANCE and this Certificate of Service, with the Clerk of the Court using the ECF system which will send notification of such filing to all counsel of record.

/s/ TAMARA J. FILAS
6477 Edgewood
Canton, MI 48187
(734) 751-0103

Dated: March 11, 2013

e-mail redacted

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Exhibit A

6477 Edgewood
Canton, MI 48187
March 8, 2013

Mr. Daryle Salisbury
42400 Grand River Ave., Ste. 106
Novi, MI 48375

SENT VIA CERTIFIED MAIL AND
CERTIFICATE OF MAILING

Dear Mr. Salisbury,

Please be advised you are dismissed as my attorney. I am terminating the professional relationship and you should immediately cease working on any and all matters related to my first-party no-fault and personal injury cases (12-016693-NF and 13-000652-NI).

I am requesting the return of the two binders I loaned you (MEEMIC records and medical records), and a complete copy of both case files, including any correspondence between you and the three defense attorneys. I would like to pick up these materials in person. I will be contacting you to set up a date to do so.

Please send me an itemized bill listing all pending fees and expenses.

Thank you for your services.

Yours truly,

signature
redacted

Tamara Filas

UNITED STATES POSTAL SERVICE[®] Certificate of Mailing

From: **F** Ms. Tamara Filas
6477 Edgewood Rd
Canton, MI 48187-5264

To: Mr. Daryle Salisbury
42400 Grand River Ave., Ste. 106
Novi, MI 48375

PS Form 3817 April 2012 PSN 7510-02-000-9005

1000
UNITED STATES POSTAL SERVICE

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NOVI MI 48375

Postage	\$ 10.46	0198
Certified Fee	\$ 3.10	16 Postmark Here
Return Receipt Fee (Endorsement Required)	\$ 2.55	
Registered Delivery Fee (Endorsement Required)	\$ 0.00	
Total Postage & Fees	\$ 16.11	03/09/2013

Sent To: Mr. Daryle Salisbury
Street, Apt. No. 42400 Grand River Ave., Ste. 106
City, State, ZIP+4[®] Novi, MI 48375

PS Form 3800, August 2008 See Reverse for Instructions

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EXHIBIT 2

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

TAMARA FILAS,

Plaintiff,

v.

Case No. 13-000652-NI
Honorable Susan D. Borman

KEVIN THOMAS CULPERT and
EFFICIENT DESIGN, INC., A Michigan Corporation,

Defendants.

13-000652-NI
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4/30/2013 9:44:05 AM

TAMARA FILAS
In Pro Per
6477 Edgewood Road
Canton, MI 48187

JAMES C. WRIGHT (P67613)
Zausmer, Kaufman, August & Caldwell, P.C.
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jwright@zkac.com

AHMED M. HASSOUNA (P67995)
Law Offices of Mark E. Williams
Attorney for Defendant Culpert
340 E. Big Beaver, Suite 250
Troy, MI 48083
(248) 764-1127
Ahmed_M_Hassouna@Progressive.com

NOTICE OF HEARING

PLEASE TAKE NOTICE that Defendant Efficient Design's Motion to Compel Discovery from Plaintiff, will be brought on for hearing before the Honorable Susan D. Borman on Friday, May 10, 2013, at 9:00 a.m., or as soon thereafter as counsel may be heard.

Zausmer, Kaufman, August & Caldwell, P.C.

/s/ James C. Wright

JAMES C. WRIGHT (P67613)
Attorneys for Defendant Efficient Design
31700 Middlebelt Road, Suite 150
Farmington Hills MI 48334-2374
(248) 851-4111

Dated: April 30, 2013

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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

TAMARA FILAS,

Plaintiff,

v.

Case No. 13-000652-NI
Honorable Susan D. Borman

KEVIN THOMAS CULPERT and
EFFICIENT DESIGN, INC., A Michigan Corporation,

Defendants.

TAMARA FILAS
In Pro Per
6477 Edgewood Road
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JAMES C. WRIGHT (P67613)
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AHMED M. HASSOUNA (P67995)
Law Offices of Mark E. Williams
Attorney for Defendant Culpert
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Troy, MI 48083
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Ahmed_M_Hassouna@Progressive.com

DEFENDANT'S MOTION TO COMPEL DISCOVERY FROM PLAINTIFF

NOW COMES the Defendant, EFFICIENT DESIGN, INC., by and through its attorneys, ZAUSMER, KAUFMAN, AUGUST & CALDWELL, P.C., and in support of its Motion to Compel Discovery from Plaintiff states as follows:

1. This claim for third-party benefits arises out of a motor vehicle accident that occurred on January 15, 2010.
2. On or about February 7, 2013, Defendant served its Combined Request for Admissions and Request for Production of Documents to Plaintiff. Plaintiff did not answer or object to said Request for Admissions and Request for Production of

Documents within twenty-eight (28) days, and has still not answered or objected to said Request for Admissions and Request for Production of Documents, and so Defendant requests that this Court enter an Order pursuant to MCR 2.312(C) deeming Plaintiff's non-responses as admissions.

3. On or about February 7, 2013, Defendant served its First Interrogatories upon Plaintiff. Plaintiff did not answer or object to said Interrogatories within twenty-eight (28) days, and has still not answered or objected to said Interrogatories, and so Defendant seeks an Order Compelling Discovery as authorized by MCR 2.313(A). (Exhibit A)
4. On or about February 7, 2013, Defendant served its Interrogatories and Request for Production of Documents Regarding the Existence of a Medicare Lien upon Plaintiff. (Exhibit A) Plaintiff did not answer or object to said request for Interrogatories and Request for Production of Documents Regarding the Existence of a Medicare Lien within twenty-eight (28) days, and has still not answered or objected to said Interrogatories and Production of Documents, and so Defendant seeks an Order Compelling Discovery as authorized by MCR 2.310.
5. Said Answers to Admissions and Request for Production of Documents, First Interrogatories, Request for Production of Documents and Interrogatories and Request for Production of Documents Regarding the Existence of a Medicare Lien are essential to the proper defense of this case.
6. Defendant would be greatly prejudiced by Plaintiff's continued refusal to answer said discovery requests.

WHEREFORE, Defendant prays that this Honorable Court enter an Order deeming Plaintiff's non-responses to Request for Admissions and Request for Production of Documents as admissions, an Order requiring Plaintiff to file with this Court and counsel for Defendant, Answers to First Interrogatories and Request for Production of Documents Regarding the Existence of a Medicare Lien within a period of seven (7) days from the date of hearing on this Motion, for failure

Zausmer, Kaufman, August & Caldwell, P.C.
31700 Middlebelt Road, Suite 150, Farmington Hills, MI 48334-2374 • 721 N. Capitol, Suite 2, Lansing, MI 48906-5163

of which Plaintiff's Complaint shall be dismissed, and that Defendant shall have costs and fees necessary for the presentment of this Motion.

Zausmer, Kaufman, August & Caldwell, P.C.

/s/ James C. Wright

JAMES C. WRIGHT (P67613)
Attorneys for Defendant Efficient Design
31700 Middlebelt Road, Suite 150
Farmington Hills MI 48334-2374
(248) 851-4111

Dated: April 30, 2013

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

TAMARA FILAS,

Plaintiff,

v.

Case No. 13-000652-NI
Honorable Susan D. Borman

KEVIN THOMAS CULPERT and
EFFICIENT DESIGN, INC., A Michigan Corporation,

Defendants.

TAMARA FILAS
In Pro Per
6477 Edgewood Road
Canton, MI 48187

JAMES C. WRIGHT (P67613)
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Attorneys for Defendant Efficient Design
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AHMED M. HASSOUNA (P67995)
Law Offices of Mark E. Williams
Attorney for Defendant Culpert
340 E. Big Beaver, Suite 250
Troy, MI 48083
(248) 764-1127
Ahmed_M_Hassouna@Progressive.com

BRIEF IN SUPPORT OF MOTION TO COMPEL DISCOVERY

Defendant, EFFICIENT DESIGN, INC., relies on the facts set forth in its foregoing Motion and MCR 2.302(D), MCR 2.309, MCR 2.310, and MCR 2.313(A) in support of its Motion to Compel Discovery.

Zausmer, Kaufman, August & Caldwell, P.C.

/s/ James C. Wright
JAMES C. WRIGHT (P67613)
Attorneys for Defendant Efficient Design
31700 Middlebelt Road, Suite 150
Farmington Hills MI 48334-2374
(248) 851-4111

Dated: April 30, 2013

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STATE OF MICHIGAN
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Honorable Susan D. Borman

KEVIN THOMAS CULPERT and
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Defendants.

TAMARA FILAS
In Pro Per
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JAMES C. WRIGHT (P67613)
Zausmer, Kaufman, August & Caldwell, P.C.
Attorneys for Defendant Efficient Design
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(248) 851-4111//fax (248) 851-0100
jwright@zkac.com

AHMED M. HASSOUNA (P67995)
Law Offices of Mark E. Williams
Attorney for Defendant Culpert
340 E. Big Beaver, Suite 250
Troy, MI 48083
(248) 764-1127
Ahmed_M_Hassouna@Progressive.com

PROOF OF SERVICE

Shirley M. Biernacki states that on April 30, 2013, she served a copy of Defendant's Motion To Compel Discovery From Plaintiff, Brief In Support, Notice Of Hearing, Praecipe and this Proof of Service by enclosing copies of said documents in a sealed envelope, with prepaid, first-class postage affixed and addressed to Tamara Filas, In Pro Per and Ahmed M. Hassouna, Attorney for Defendant Culpert, and depositing said envelope in the U.S. mail, in Farmington Hills, Michigan.



SHIRLEY M. BIERNACKI

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EXHIBIT A

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

TAMARA FILAS,

Plaintiff,

Case No. 13-000652-NI

Honorable Susan D. Borman

v.

KEVIN THOMAS CULPERT and
EFFICIENT DESIGN, INC.,
A Michigan Corporation,

Defendants.

DARYLE SALISBURY (P19852)
Attorney for Plaintiff
42400 Grand River Avenue, Suite 106
Novi, MI 48375
(248) 348-6820
darylesalisbury@att.net

JAMES C. WRIGHT (P67613)
Zausmer, Kaufman, August & Caldwell, P.C.
Attorneys for Defendant Efficient Design
31700 Middlebelt Road, Suite 150
Farmington Hills, MI 48334
(248) 851-4111//fax (248) 851-0100
jwright@zkac.com

**DEFENDANT EFFICIENT DESIGN, INC.'S COMBINED REQUEST FOR
ADMISSIONS AND REQUEST FOR PRODUCTION OF DOCUMENTS TO
PLAINTIFF**

NOW COMES the Defendant, EFFICIENT DESIGN, INC., by and through its attorneys, ZAUSMER, KAUFMAN, AUGUST & CALDWELL, P.C., and hereby request admissions and production of documents from Plaintiff pursuant to MCR 2.310, to be delivered to our office within twenty-eight (28) days after service of this request:

Request for Admissions

1. Admit that the Plaintiff is not treating with any doctor or medical care provider related to this accident. If your answer is anything less than a complete admission, please provide any and all documentation in support of your answer.

RESPONSE:

Zausmer, Kaufman, August & Caldwell, P.C.
31700 Middlebelt Road, Suite 150, Farmington Hills, MI 48334-2374 • 721 N. Capitol, Suite 2, Lansing, MI 48906-5163

2. Admit that Plaintiff is not currently under any doctor's disabilities related to this accident. If your answer is anything less than a complete admission, please provide any and all documentation in support of your answer.

RESPONSE:

3. Admit that Plaintiff is currently working. If your answer is anything less than a complete admission, please provide any and all documentation in support of your answer.

RESPONSE:

4. Admit that Plaintiff is able to work. If your answer is anything less than a complete admission, please provide any and all documentation in support of your answer.

RESPONSE:

Request for Production of Documents to Plaintiff

1. Copies of any and all medical records relating to injuries received as a result of the subject accident.

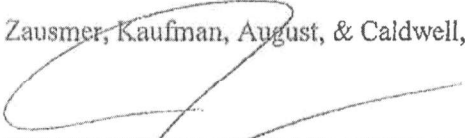
RESPONSE

2. Please produce copies of any and all photographs with regard to this accident.

RESPONSE

Defendants will pay reasonable photocopying costs for the documents produced.

Zausmer, Kaufman, August, & Caldwell, P.C.



JAMES C. WRIGHT (P67613)
Attorney for Defendant Efficient Design
31700 Middlebelt Road, Suite 150
Farmington Hills, MI 48334
(248) 851-4111

Dated: February 7, 2013

Zausmer, Kaufman, August & Caldwell, P.C.
31700 Middlebelt Road, Suite 150, Farmington Hills, MI 48334-2374 • 721 N. Capitol, Suite 2, Lansing, MI 48906-5183

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

TAMARA FILAS,

Plaintiff,

Case No. 13-000652-NI

Honorable Susan D. Borman

v.

KEVIN THOMAS CULPERT and
EFFICIENT DESIGN, INC.,
A Michigan Corporation,

Defendants.

DARYLE SALISBURY (P19852)
Attorney for Plaintiff
42400 Grand River Avenue, Suite 106
Novi, MI 48375
(248) 348-6820
darylesalisbury@att.net

JAMES C. WRIGHT (P67613)
Zausmer, Kaufman, August & Caldwell, P.C.
Attorneys for Defendant Efficient Design
31700 Middlebelt Road, Suite 150
Farmington Hills, MI 48334
(248) 851-4111//fax (248) 851-0100
jwright@zkac.com

DEFENDANT EFFICIENT DESIGN INC.'S FIRST INTERROGATORIES TO
PLAINTIFF

NOW COMES Defendant, EFFICIENT DESIGN, INC., by and through its attorneys,
ZAUSMER, KAUFMAN, AUGUST & CALDWELL, P.C., and hereby submits the following
interrogatories to be answered by the Plaintiff separately and fully, in writing and under oath, within
twenty-eight (28) days of the date of service, pursuant to MCR 2.309:

- I. State your:
 - a) full name;
 - b) exact date of birth;
 - c) place of birth; and
 - d) social security number.

ANSWER:

31700 Middlebelt Road, Suite 150, Farmington Hills, MI 48334-2874 • 721 N. Capitol, Suite 2, Lansing, MI 48906-5153
Zausmer, Kaufman, August & Caldwell, P.C.

2. Have you ever used or been known by any other name? If so, please state such other names and the years of use.

ANSWER:

3. Please list each of your former addresses for the past ten years, together with the dates when you lived at each address.

ANSWER:

4. Are you presently married? If so, state:
- a) when and where you were married;
 - b) the full name and address of your spouse;
 - c) whether there is a divorce action pending between you and your present spouse; and
 - d) whether a divorce action ever been filed.

ANSWER:

5. Have you ever previously been married? If so, state as to each such marriage:
- a) name of spouse;
 - b) date of marriage;
 - c) place of marriage;
 - d) date of termination of such marriage;
 - e) whether such marriage was terminated by death, and
 - f) if terminated by divorce, state date and place of divorce, name of the court, and last known address of spouse divorced.

ANSWER:

6. State your education history giving the following:
- a) name and address of each school attended;
 - b) dates of attendance;
 - c) highest grade or class obtained; and
 - d) degree conferred.

ANSWER:

7. State your military history giving the following:

- a) branch of armed service;
- b) dates of service;
- c) overseas service;
- d) highest grade or rank obtained; and
- e) time and date of discharge.

ANSWER:

8. What is your present occupation, and please state:

- a) the name and address of your present employer;
- b) the name and address of your former employers for the past ten years, if any.

ANSWER:

9. State whether you have ever been convicted of any crime in this state or elsewhere, and if so, state:

- a) the nature of the offense;
- b) the date of conviction; and
- c) the sentence received.

ANSWER:

10. State whether you hold a Michigan driver's license and if so, give the full number thereof, including the expiration date.

ANSWER:

11. Did you file an income tax return in any year during the past five years? If so, state:

- a) which years;
- b) do you have copies of these returns? If not, state the person, firm or organization which has these copies. If so, attach copies of your tax returns for the past five years to your answers to these interrogatories.

ANSWER:

12. State whether you consumed alcoholic beverages and/or drugs of any kind during the

Zausmer, Kaufman, August & Caldwell, P.C.
31700 Middlebelt Road, Suite 150, Farmington Hills, MI 48334-2374 • 721 N. Capital, Suite 2, Lansing, MI 48906-5163

forty-eight hour period immediately preceding the occurrence of this accident. If so, specify:

- a) the nature and amount of said alcoholic beverage and/or drug;
- b) the time over which and the place at which such alcoholic beverages and/or drugs were/was consumed; and
- c) give the name and address of each person with whom you may have participated in the above.

ANSWER:

13. State your net income for the year of the incident complained of and each of the preceding four years.

ANSWER:

14. State whether or not you have been involved in any accidents in which you sustained any injury, including, but not limited to, automobile accidents prior to the subject accident. If so, state:

- a) the place of each such accident(s);
- b) the date of each such accident(s);
- c) with specificity, any personal injuries you may have sustained in any such accident(s); and
- d) the name, address, telephone number and dates of treatment for each and every medical provider and/or treating and/or examining physician who treated you for each of such injuries.

ANSWER:

15. Give the same information requested in the preceding Interrogatory for the period since this accident.

ANSWER:

16. State whether you have ever made a claim against any employer under the workers'

compensation laws of the State of Michigan, or any other state, and, if so, state:

- a) the name and address of each such employer;
- b) the date and nature of the incident giving rise to such claim;
- c) the injuries sustained by you; and
- d) the names and business addresses of the workers' compensation insurance carriers involved.

ANSWER:

17. State whether you have ever made a claim for unemployment compensation and, if so, during what period was such a claim made?

ANSWER:

18. State whether or not, at the time of the accident herein alleged, you were suffering from any disability, defect or pre-existing disease, whether physical or otherwise and, if so, specify:

- a) the nature, extent and duration of said disability, defect or pre-existing disease, and outline all treatments received therefor, together with the dates thereof.

ANSWER:

19. Describe in detail the injuries sustained by you in the accident set forth in the Complaint, and state with specificity, whether you sustained:

- a) any fractures, or dislocations of any bones;
- b) any abrasions, contusions, or hematomas of the skin;
- c) any sprains or strains of any ligaments or muscles;
- d) any injury to any nerves or the nervous system;
- e) aggravation of any pre-existing conditions;
- f) any internal injuries, and describe the nature of same;
- g) any permanent scars; and/or
- h) any other injuries.

ANSWER:

20. State the names and addresses of all doctors whom you have seen or with whom you

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Zausmer, Kaufman, August & Caldwell, P.C.

have consulted during the five years preceding the date of this incident, and the nature of the ailment, illness, or other reason for which such doctor was consulted.

ANSWER:

21. Give the same information requested in interrogatory #20 for the period subsequent to this accident.

ANSWER:

22. Have you ever before made a claim or filed a lawsuit against anyone based on any personal injury to yourself or any member of your family? If so:

- a) list any such claims or lawsuits;
- b) state the dates and places where filed;
- c) state the nature of the injury and the duration of same; and
- d) list the name address and medical facility of any and all treating doctors, chiropractors, osteopaths or other medical personnel.

ANSWER:

23. State whether or not you have ever been hospitalized prior to this accident and, if so, state:

- a) the name and address of each such hospital, clinic or other medical institution;
- b) the dates during which you were so confined;
- c) the nature of your illness, disease or injury giving rise to such confinement; and
- d) the name and address of your treating and examining physicians.

ANSWER:

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24. State whether or not you received medical treatment for the injuries alleged in this action, and, if so, also state:

- a) the name and address of each hospital, or other place of treatment and the dates you were confined therein;
- b) the name and address of each doctor who treated you;
- c) the number of occasions on which you were examined or treated by each doctor, setting forth the dates of each examination or treatment;
- d) what treatment was rendered by the various doctors, indicating whether or not said treatment was rendered at the doctor's office, at the Plaintiff's home or in the hospital; and
- e) the sums of money paid or owing for services rendered.

ANSWER:

25. State whether or not you are claiming any of your injuries are of a permanent nature, and, if so, which of said injuries.

ANSWER:

26. If you were required to wear a cast, brace, crutch or artificial support, please give the name of such brace or support, describe it, and state the length of time you were required to wear same. Also, please state the name of the doctor prescribing the use of such support.

ANSWER:

27. If X-rays were taken of you with reference to the injuries alleged to have been received by you, state when, where and by whom said injuries occurred, and the name and address of the person now having control or custody of the X-rays and furnish copies of all such X-ray reports.

ANSWER:

28. State the date of last treatment of the Plaintiff by the various doctors, and indicate which of said doctors are still treating Plaintiff.

ANSWER:

29. Give the name and address of Plaintiff's family physician.

ANSWER:

30. Itemize all medical bills paid or incurred by you in connection with the accident described in the Complaint, including, but not limited to, the cost of ambulance, doctor's bills, cost of X-rays, hospital expenses, nurses' expenses, costs of medicines and costs of surgical apparatus, as well as any other costs. Further, for each such medical expense, provide the name and address of the care provider as well as the services rendered by same.

ANSWER:

31. Itemize all other items of expense and loss which were incurred by you or on your behalf as a result of the incident here sued upon for which you ask compensation in this case.

ANSWER:

32. State whether you or any of your representatives have in your possession medical and/or hospital reports in connection with your confinement and treatment and statements of charges in connection therewith and, if so, attach copies of such reports and statements, together with the statement for any cost of reproduction thereof.

ANSWER:

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33. State whether there are any medical billings related to this accident that are outstanding and, if so, itemize by name and address these billings, stating the amount due, date of treatment and any other descriptive information related to those billings. Further, please attach copies of said billings hereto.

ANSWER:

34. State whether there are any outstanding wage loss benefits and, if so, specify for which period of time.

ANSWER:

35. Itemize all other items of expense and loss which were incurred by you or on your behalf as a result of the incident here sued upon for which you ask compensation in this case.

ANSWER:

36. State whether you have ever been denied any life, health, or automobile insurance coverage, or had to pay increased insurance premiums therefor, because of any physical infirmity, ailment, disease, or other cause.

ANSWER:

37. State the last time, prior to this accident, you had a complete physical examination and the name(s) and address(es) of the doctor(s) making this examination.

ANSWER:

38. Exactly how much income, if any, do you claim to have lost to date as a result of the incident complained of?

ANSWER:

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39. State whether you were employed, or had a business, trade or profession of your own at the time of the incident giving rise to the alleged injuries complained of in this lawsuit, and, if so, state the following:

- a) where you were employed on the date of the accident;
- b) the type of employment;
- c) the nature, or type of work engaged in, briefly
- d) describing the duties performed by you in your work;
- e) the amount of weekly or monthly earnings received by you from this employment, business, trade or profession;
- f) the date or dates you were prevented from performing the duties of your employment, business, trade or profession, by reason of your alleged injuries; and
- g) the amount of earnings of income it is claimed you have lost from the date of the accident described in the Complaint.

ANSWER:

40. Have you applied for employment at any time since the date of this incident? If so, state:

- a) the name and address of each and every person, firm, corporation, partnership or other entity to whom you have applied;
- b) the date of the application;
- c) the results of the application;
- d) the date you were hired;
- e) your rate of pay for said employment;
- f) the nature or type of work engaged in, briefly describing the duties performed by you in your work.

ANSWER:

41. State the amount of income received by you from your employment, trade, business or profession for each of the three years immediately preceding the year in which the accident occurred.

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ANSWER:

42. State the names and addresses of all eye witnesses to the occurrence in question known to you or to your attorney.

ANSWER:

43. State the name, address, employer and employment capacity of all persons who have investigated, on your behalf, the accident complained of in this case.

ANSWER:

44. State whether any statements were taken by such investigators. If so:

- a) give the name and addresses of all persons from whom statements were obtained;
- b) explain, with regard to each statement, whether the statement is a handwritten one or a recorded one (by telephone, conversation or otherwise), and also, state whether such statement is signed or unsigned;
- c) give the date on which each statement was obtained and the place where it was obtained;
- d) give the name and address of the person or persons who obtained the statements;
- e) give the name, address and capacity of the person or persons in whose custody the original statement is at the present time; and
- f) list the persons, together with their addresses, who have copies or reproductions of such statements at the present time.

ANSWER:

45. State whether copies of the statements identified in the above interrogatories were given to each of the persons from whom said statements were taken:

- a) if so, list the persons who were given copies of their

- statements and the date that copies were furnished;
and
- b) if not, attach copies of all statements enumerated herein to your answers to these interrogatories.

ANSWER:

46. State whether you have any photographs of any of the persons, places or things involved in this accident, including, but not limited to, pictures of the incident scene, equipment or persons involved. If so:

- a) state the name and address of the person by whom each was taken;
- b) state when and where each was taken;
- c) give a brief description of what each photograph represents;
- d) give the name and address of the person or persons who have present custody of such photographs, including the person who has the original negatives; and
- e) attach copies of such photographs or duplicate negatives of such photograph to your answers, together with a statement for any cost of reproduction thereof.

ANSWER:

47. Please state the name and addresses of each and every lay witness that you intend to call at the trial of this cause.

ANSWER:

48. Please state the name and address of each and every expert witness you intend to have testify at trial. As to each expert, please state:

- a) his/her field of expertise;

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- b) all of their educational training, employment experience and qualifications regarding his/her field of expertise. Please attach a copy of his/her curriculum vitae with your answers to these Interrogatories;
- c) the issues and subject matter of their proposed testimony;
- d) the substance of their proposed opinion testimony;
- e) the factual basis of their opinion testimony;
- f) identify any and all photographs, diagrams, measurements, tests, notes and/or other written material reviewed and performed in this case. Please attach copies of any and all such material with your answers to these Interrogatories;
- g) has a written report been prepared concerning your expert's findings, impressions and/or opinions, if so, will you produce a copy of such report without the necessity of a court order? If so, please attach copies with your answers hereto.

ANSWER:

49. Will you, without the necessity of a motion, sign medical and employment authorization forms?

ANSWER:

50. List the name, address, policy number and claim number of every insurance company that paid or was requested to pay any medical expenses or lost wages as a result of this accident.

ANSWER:

51. Please state whether you have been requested by an insurance company, employer, other person, firm or corporation to undergo a medical examination subsequent to this accident, and if so, state:

- a) the name of the requesting entity;
- b) the doctor who performed the examination; and
- c) the date on which the examination was performed.

ANSWER:

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52. Have you ever made application for, received, or are now receiving, any benefits from the Social Security Administration? If so, state:

- a) The date and place of application;
- b) The reason for filing such application;
- c) The results of the application.

ANSWER:

53. Please state whether the Plaintiff had in effect for his or her motor vehicle an insurance policy, as required by MCL 500.3101 of the No-Fault Act, at the time of the subject injury, and, if so, please state:

- a) the policy number;
- b) the name, address and telephone number of the insurance provider; and
- c) the claim number.

ANSWER:

54. State the date when you first sought legal advice regarding this claim, and also, state:

- a) the name, address and telephone number of that attorney;
- b) whether you ultimately retained this attorney, and, if not, the name of the attorney you did ultimately retain; and
- c) the date you first consulted your current attorney regarding this matter.

ANSWER:

55. If you are claiming outstanding medical bills, please identify the medical provider to whom the bill is outstanding and any amount of each outstanding bill.

ANSWER:

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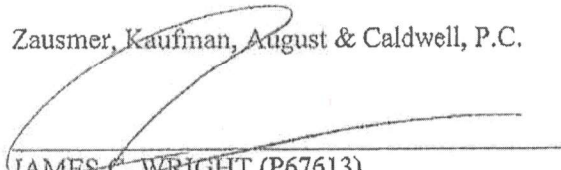
56. If you are claiming household replacement services, please indicate the periods for which such services are being claimed, and the amount being claimed.

ANSWER:

57. If you are claiming a work loss, please indicate the dates that you were off work and the amount of work loss claimed.

ANSWER:

Zausmer, Kaufman, August & Caldwell, P.C.


JAMES C. WRIGHT (P67613)
Attorneys for Defendant Efficient Design
31700 Middlebelt Road, Suite 150
Farmington Hills, MI 48334
(248) 851-4111

Dated: February 7, 2013

Zausmer, Kaufman, August & Caldwell, P.C.
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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

TAMARA FILAS,

Plaintiff,

Case No. 13-000652-NI

Honorable Susan D. Borman

v.

KEVIN THOMAS CULPERT and
EFFICIENT DESIGN, INC.,
A Michigan Corporation,

Defendants.

DARYLE SALISBURY (P19852)
Attorney for Plaintiff
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darylesalisbury@atl.net

JAMES C. WRIGHT (P67613)
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Attorneys for Defendant Efficient Design
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jwright@zkac.com

**DEFENDANT EFFICIENT DESIGN, INC.'S INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS REGARDING THE EXISTENCE OF A
MEDICARE/MEDICAID LIEN**

NOW COMES Defendant, EFFICIENT DESIGN, INC., by and through its attorneys, ZAUSMER, KAUFMAN, AUGUST & CALDWELL, P.C., and hereby submit the following interrogatories to be answered by the Plaintiffs, separately and fully, in writing and under oath, within twenty-eight (28) days of the date of service, pursuant to MCR 2.309:

1. Does Plaintiff and/or Decedent qualify for Medicare/Medicaid benefits?

ANSWER:

2. If so, has Plaintiff and/or Decedent have received Medicare/Medicaid benefits at any time since the incident at issue in this case? If yes, then state:

- (a) When Plaintiff and/or Medicare/Medicaid recipient first began to receive Medicare/Medicaid benefits;
- (b) Is there a lien for the benefits received on Plaintiff and/or Medicare/Medicaid recipient's claim in this case;
- (c) Has this lawsuit has been reported to the COBC;
- (d) Have you requested and/or received a Conditional Payment Letter;
 - (i) If a Conditional Payment Letter has been received, attach a copy of the letter to these Interrogatories pursuant to MCR 2.310.
 - (ii) What is the last treatment date for the claims included within the Conditional Payment Letter?
 - (iii) Are any charges included within the Conditional Payment Letter/Lien disputed? If so, please state:
 - (1) The amount of the disputed claims;
 - (2) The date of the disputed claims;
 - (3) The name and contact information for the treater whose claim is disputed;
 - (4) State with specificity, the reason that the claim is being disputed by Plaintiff and/or Medicare/Medicaid recipient;
 - (5) Whether any decision has been issued by Medicare/Medicaid regarding this disputed claim;
- (e) Has Plaintiff and/or Medicare/Medicaid recipient had any treatment since the Conditional Payment Letter was issued? If so, state:
 - (i) The date of said treatment;
 - (ii) Where this treatment was provided;
 - (iii) The name and contact information of the person and/or entity providing said treatment;

- (iv) State with specificity, the nature of the treatment provided;
- (v) Were there any costs associated with said treatment? If so, state:
 - (1) The total cost of said treatment;
 - (2) Who paid for the cost of this treatment?;
 - (3) Attach a copy of the bills for said treatment pursuant to MCR 2.310.

ANSWER:

3. For the purposes of allowing Defendant to provide notice to CMMS, state:

- (a) Plaintiff and/or Medicare/Medicaid recipient's Social Security Number;
- (b) Plaintiff and/or Medicare/Medicaid recipient's HICN number;
- (c) Plaintiff and/or Medicare/Medicaid recipient's full name;
- (d) Whether Plaintiff and/or Medicare/Medicaid recipient ever sought Medicare/Medicaid benefits under any other name. If so, please state each name under which benefits were sought and/or received;
- (e) Plaintiff and/or Medicare/Medicaid recipient's date of birth;
- (f) The date of the alleged incident giving rise to this Complaint;
- (g) The alleged cause of injury, accident or illness;
- (h) ICD-9 Diagnosis Code numbers (1) through (19), if applicable;
- (i) The Plaintiff and/or Medicare/Medicaid recipient's attorney's law firm tax ID number.

ANSWER:

4. Is Plaintiff and/or Medicare/Medicaid recipient willing to sign an authorization to release the Defendant to contact CMMS regarding whether Plaintiff and/or Medicare/Medicaid recipient

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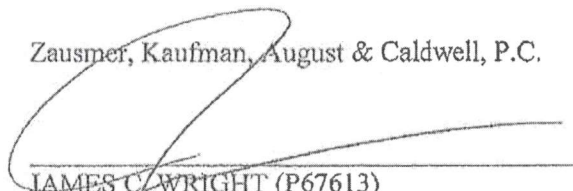
is receiving Medicare/Medicaid benefits. If so, please sign the enclosed authorization form, and submit with your Answers to these Interrogatories pursuant to MCR 2.310.

ANSWER:

5. Will you agree to supplement these answers throughout the course of discovery if any answer becomes incorrect?

ANSWER:

Zausmer, Kaufman, August & Caldwell, P.C.



JAMES C. WRIGHT (P67613)

Attorneys for Defendant Efficient Design
31700 Middlebelt Road, Suite 150
Farmington Hills, MI 48334
(248) 851-4111

Dated: February 7, 2013

Zausmer, Kaufman, August & Caldwell, P.C.
31700 Middlebelt Road, Suite 150, Farmington Hills, MI 48334-2374 • 721 N. Capitol, Suite 2, Lansing, MI 48906-5163

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

TAMARA FILAS,

Plaintiff,

Case No. 13-000652-NI
Honorable Susan D. Borman

v.

KEVIN THOMAS CULPERT and
EFFICIENT DESIGN, INC.,
A Michigan Corporation,

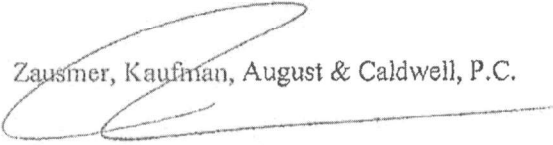
Defendants.

DARYLE SALISBURY (P19852)
Attorney for Plaintiff
42400 Grand River Avenue, Suite 106
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darylesalisbury@att.net

JAMES C. WRIGHT (P67613)
Zausmer, Kaufman, August & Caldwell, P.C.
Attorneys for Defendant Efficient Design
31700 Middlebelt Road, Suite 150
Farmington Hills, MI 48334
(248) 851-4111//fax (248) 851-0100
jwright@zkae.com

NOTICE OF TAKING DEPOSITION

PLEASE TAKE NOTICE that on Thursday, April 18, 2013, beginning at 10:00 a.m. and continuing until complete, Defendant, Elite Design, Inc., will take the deposition of Tamara Filas, Plaintiff herein, at the offices of Daryle Salisbury, 42400 Grand River Avenue, Suite 106, Novi, MI 48375. Oral testimony will be taken in accordance with the provisions of MCR 1985, 2.305 and 2.306.


Zausmer, Kaufman, August & Caldwell, P.C.

JAMES C. WRIGHT (P67613)
Attorneys for Defendant Efficient Design
31700 Middlebelt Road, Suite 150
Farmington Hills, MI 48334
(248) 851-4111

Dated: February 7, 2013

Zausmer, Kaufman, August & Caldwell, P.C.
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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

TAMARA FILAS,

Plaintiff,

Case No. 13-000652-NI
Honorable Susan D. Borman

v.

KEVIN THOMAS CULPERT and
EFFICIENT DESIGN, INC., A Michigan Corporation,

Defendants.

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JAMES C. WRIGHT (P67613)
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(248) 851-4111/fax (248) 851-0100
jwright@zkae.com

PROOF OF SERVICE

The undersigned deposes and says that on February 7, 2013, she did cause copies of Defendant Efficient Design, Inc.'s Combined Request for Admissions and Request for Production of Documents to Plaintiff, Defendant Efficient Design, Inc.'s First Interrogatories to Plaintiff, Defendant Efficient Design, Inc.'s Interrogatories and Request for Production of Documents Regarding the Existence of a Medicare/Medicaid Lien, Notice of Taking Deposition of Plaintiff and this Proof of Service to be served upon all parties to the instant action by enclosing said documents in envelopes, clearly addressed to their respective counsel of record as disclosed by the pleadings herein, and depositing same in the United States mail, with postage fully prepaid thereon affixed, in Farmington Hills, Michigan.


SHIRLEY M. BIERNACKI

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EXHIBIT 3

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

TAMARA FILAS,

Case No.: 13-000652-NI

Hon. Susan D. Borman

Plaintiff,

-vs-

KEVIN THOMAS CULPERT, AND
EFFICIENT DESIGN, INC., A Michigan
Corporation.

13-000652-NI

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Defendants.

<p>TAMARA FILAS Plaintiff 6477 Edgewood Rd. Canton, MI 48187 (734) 751-0103 e-mail redacted</p>	<p>MICHAEL C. O'MALLEY (P59108) Attorney for Defendant Efficient Design 1450 W. Long Lake Rd., Ste. 100 Troy, MI 48098 (248) 312-2940 momalley@vgpclaw.com</p>
<p>AHMED M. HASSOUNA (P67995) Attorney for Defendant Culpert 340 E. Big Beaver, Suite 250 Troy, MI 48083 (248) 764-1127 Ahmed_M_Hassouna@progressive.com</p>	<p>JAMES C. WRIGHT (P67613) Attorney for Defendant Efficient Design 31700 Middlebelt Rd., Suite 150 Farmington Hills, MI 48334 (248) 851-4111/0100 (Fax) jwright@zkact.com</p>

**PLAINTIFF'S ANSWER TO DEFENDANT EFFICIENT DESIGN'S MOTION TO
COMPEL DISCOVERY FROM PLAINTIFF**

NOW COMES Tamara Filas, Plaintiff, answering the Motion to Compel Discovery and asking the court to deny Defendant's Motion since all of Defendant's requests will have already been met, with the exception of the production of Plaintiff's medical records. Plaintiff requests that the Court require that Defendant, Efficient Design, show cause before requesting Plaintiff to produce her medical records.

Let it be clear that Plaintiff in no way is trying to delay discovery. Plaintiff has been working on these documents which require a lot of computer use and increases Plaintiff's pain levels. Due to injuries sustained in the auto accident, Plaintiff has been advised by her health care providers to limit the amount of time she spends on the computer to avoid triggering painful episodes related to computer use. Plaintiff has worked on the computer in extreme pain to complete Defendant's requests for information in as timely a manner as possible. As of the date of this Answer, June 18, 2013, Plaintiff fully intends to complete and submit Answers to First Interrogatories and Request for Production of Documents Regarding the Existence of a Medicare Lien, and the Request for Admissions and Request for Production of Documents, as requested in Mr. Wright's Motion to Compel, before the Motion to Compel is heard.

Plaintiff contends that until it is established through discovery that Efficient Design is liable for harm caused by Kevin Culpert while in the course and scope of his employment, Plaintiff should not be required to release her medical information to Defendant, Efficient Design Inc.

To the best of Plaintiff's knowledge, Plaintiff's former attorney, Daryle Salisbury, did not send any interrogatories to defendant Kevin Culpert or to Efficient Design Inc. or depose Kevin Culpert or Efficient Design Inc., to obtain facts or proof that Efficient Design Inc. is liable for damages to Plaintiff.

According to Defendant, Efficient Design Inc.'s 2-6-13 Answer to Plaintiff's Complaint, Item #16, "Defendant Culpert was **not an agent of Efficient Design Inc.** and was **not in the course and scope of his employment** when the alleged accident occurred." Plaintiff still needs to obtain interrogatories from Kevin Culpert and Efficient Design, Inc. to determine the liability of Efficient Design, Inc.

Defendant requested in his Motion to Compel that the Court “enter an Order deeming Plaintiff’s non-responses to Request for Admissions and Request for Production of Documents as admissions” and to enter “an Order requiring Plaintiff to file with this Court and counsel for Defendant, Answers to First Interrogatories and Request for Production of Documents Regarding the Existence of a Medicare Lien within a period of seven (7) days from the date of hearing on this motion.”

By the hearing on this motion, Plaintiff will have already submitted her Answers to all of the abovementioned items, with the exception of copies of her medical records, part of the Request for Production. Plaintiff will be greatly prejudiced if Defendant’s request that Plaintiff’s non-submission of her medical records is deemed to be an admission that Plaintiff has no medical records to provide, and it is later determined that Efficient Design Inc. is liable for damages to the Plaintiff, since these records would be required to prove damages to Plaintiff.

Plaintiff requests 28 days (due to the extensive computer use required) to prepare interrogatories and requests for admissions for Defendant, Kevin Culpert, and Defendant, Efficient Design, Inc., to attempt to determine the liability of Efficient Design Inc., in the third party tort case. Plaintiff does not believe it is reasonable for the Court to require her to provide medical records to Efficient Design Inc., a party that has not yet admitted any responsibility in the case.

WHEREFORE, Plaintiff prays that this Honorable Court deny Defendant’s Motion to Compel, since all of Defendant’s requests will have already been met, with the exception of the production of Plaintiff’s medical records, and grant Plaintiff’s request for 28 days to prepare interrogatories for Efficient Design so that it can be determined whether or not Efficient Design

Inc. is even liable for any damages to Plaintiff, before Plaintiff provides medical records to Defendant, Efficient Design.

/s/ TAMARA J. FILAS

6477 Edgewood
Canton, MI 48187
(734) 751-0103

Dated: June 18, 2013

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

TAMARA FILAS,

Case No.: 13-000652-NI

Hon. Susan D. Borman

Plaintiff,

-vs-

KEVIN THOMAS CULPERT, AND
EFFICIENT DESIGN, INC., A Michigan
Corporation.

Defendants.

<p>TAMARA FILAS Plaintiff 6477 Edgewood Rd. Canton, MI 48187 (734) 751-0103 e-mail redacted</p>	<p>MICHAEL C. O'MALLEY (P59108) Attorney for Defendant Efficient Design 1450 W. Long Lake Rd., Ste. 100 Troy, MI 48098 (248) 312-2940 momalley@vgpclaw.com</p>
<p>AHMED M. HASSOUNA (P67995) Attorney for Defendant Culpert 340 E. Big Beaver, Suite 250 Troy, MI 48083 (248) 764-1127 Ahmed_M_Hassouna@progressive.com</p>	<p>JAMES C. WRIGHT (P67613) Attorney for Defendant Efficient Design 31700 Middlebelt Rd., Suite 150 Farmington Hills, MI 48334 (248) 851-4111/0100 (Fax) jwright@zkact.com</p>

CERTIFICATE OF SERVICE

I hereby certify that on June 18, 2013, I electronically filed PLAINTIFF'S ANSWER TO
DEFENDANT EFFICIENT DESIGN'S MOTION TO COMPEL DISCOVERY FROM

PLAINTIFF, and this Certificate of Service, with the Clerk of the Court using the ECF system which will send notification of such filing to all counsel of record.

/s/ TAMARA J. FILAS
6477 Edgewood
Canton, MI 48187
(734) 751-0103

Dated: June 18, 2013

e-mail redacted

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EXHIBIT 4

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

TAMARA FILAS,

Plaintiff,

v.

Case No. 13-000652-NI
Honorable Susan D. Borman

KEVIN THOMAS CULPERT and
EFFICIENT DESIGN, INC.,
A Michigan Corporation,

Defendants.

13-000652-NI
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CATHY M. GARRETT

TAMARA FILAS
In Pro Per
6477 Edgewood Road
Canton, MI 48187

JAMES C. WRIGHT (P67613)
Zausmer, Kaufman, August & Caldwell, P.C.
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momalley@vgpclaw.com

DEFENDANT EFFICIENT DESIGN, INC.'S NOTICE OF SUBMISSION OF SEVEN-DAY ORDER

To: All Attorneys of Record as listed above

PLEASE TAKE NOTICE that, pursuant to MCR 2.602(B)(3), Defendant Efficient Design, Inc. has submitted the attached proposed Order of Dismissal Without Prejudice to the Court for entry, absent written objections filed on behalf of the parties within seven (7) days of service of the herein Notice.

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Zausmer, Kaufman, August & Caldwell, P.C.
31700 Middlebelt Road, Suite 150, Farmington Hills, MI 48334-2374 • 721 N. Capitol, Suite 2, Lansing, MI 48906-5163

Dated: June 24, 2013

Zausmer, Kaufman, August & Caldwell, P.C.

/s/ James C. Wright
JAMES C. WRIGHT (P67613)
Attorneys for Defendant Efficient Design
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(248) 851-4111

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

Tamara Filas
Plaintiff (s)

Case No. 13-000652-N1

-vs-

Kevin Thomas Culpent and
Efficient Design, Inc. A michigan Corporation
Defendant (s)

At a session of said Court, held in the Coleman A. Young Municipal Center,
Detroit, Wayne County, Michigan on

Present: HONORABLE SUSAN D. BORMAN
CIRCUIT COURT JUDGE

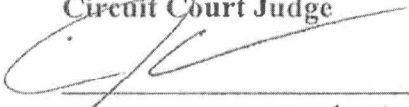
IT IS HEREBY ORDERED:

That Plaintiff Tamara Filas' case is
dismissed in its entirety without
prejudice.

It is further ordered that this Order
will be entered on July 1, 2013, if no
objection is filed on or before July 1, 2013.

SDB

Honorable Susan D. Borman
Circuit Court Judge



Plaintiff Attorney #

James Wright (P67613)
Defendant Attorney #

Michael O'Malley
(P59108)

Jack O'Leary

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

TAMARA FILAS,

Plaintiff,

v.

Case No. 13-000652-NI
Honorable Susan D. Borman

KEVIN THOMAS CULPERT and
EFFICIENT DESIGN, INC., a Michigan Corporation,

Defendants.

TAMARA FILAS
In Pro Per
6477 Edgewood Road
Canton, MI 48187

JAMES C. WRIGHT (P67613)
Zausmer, Kaufman, August & Caldwell, P.C.
Attorneys for Defendant Efficient Design
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Co-Counsel for Defendant Efficient Design
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momalley@vgpclaw.com

PROOF OF SERVICE

Shirley M. Biernacki, certifies that she is an en employee of the law firm of Zausmer, Kaufman, August & Caldwell, P. C. and states that on the 24th day of June, 2013, she caused to be served a copy of Defendant Efficient Design, Inc.'s Notice of Submission of Seven-Day Order, proposed Order and this Proof of Service upon Tamara Filas, In Pro Per, Ahmed M. Hassouna, Attorney for Defendant Culpert and Michael Charles O'Malley, Attorney for Defendant Efficient Design, electronically via Wayne County Circuit Court.

/s/ Shirley M. Biernacki
Shirley M. Biernacki

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EXHIBIT 5

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

TAMARA FILAS,

Plaintiff,

v.

Case No. 13-000652-NI
Honorable Susan D. Borman

KEVIN THOMAS CULPERT and
EFFICIENT DESIGN, INC., a Michigan Corporation,

Defendants.

TAMARA FILAS
In Pro Per
6477 Edgewood Road
Canton, MI 48187

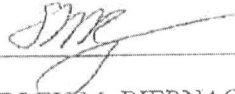
JAMES C. WRIGHT (P67613)
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momalley@vgpclaw.com

PROOF OF SERVICE

The undersigned deposes and says that on June 21, 2013, she did cause copies of Defendant Efficient Design, Inc.'s Request for Production of Documents and this Proof of Service to be served upon all parties to the instant action via email.


SHIRLEY M. BIERNACKI

Zausmer, Kaufman, August & Caldwell, P.C.
31700 Middlebelt Road, Suite 150, Farmington Hills, MI 48334-2374 • 721 N. Capital, Suite 2, Lansing, MI 48906-5163

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Shirley Biernacki

From: Shirley Biernacki
Sent: Friday, June 21, 2013 5:06 PM
To: Tamara Filas e-mail redacted
Subject: authorizations
Attachments: 20130621170410900.pdf

Please see attached. Thank you.

Shirley Biernacki
Legal Assistant to James C. Wright, Patti Tottis & Monica Hibdon
SBiernacki@zkac.com

Z|K|A|C

Zausmer, Kaufman, August & Caldwell, P.C.

31700 Middlebelt Road, Suite 150
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Phone: 248.851.4111
Fax: 248.851.0100

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Shirley Biernacki

From: Shirley Biernacki
Sent: Friday, June 21, 2013 5:25 PM
To: James C. Wright
Subject: FW: authorizations

Shirley Biernacki
Legal Assistant to James C. Wright, Patti Tottis & Monica Hibdon
Zausmer, Kaufman, August & Caldwell, P.C.
T: 248.851.4111 F: 248.851.0100
E: SBiernacki@zkac.com www.zkac.com

From: Microsoft Exchange
Sent: Friday, June 21, 2013 5:06 PM
To: Shirley Biernacki
Subject: Relayed: authorizations

Delivery to these recipients or distribution lists is complete, but delivery notification was not sent by the destination:

Tamara Filas's e-mail redacted

Subject: authorizations

Sent by Microsoft Exchange Server 2007

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