

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

TAMARA FILAS,

Plaintiff-Appellant,

Court of Appeals No: 317972

Circuit Court No: 13-000652-NI

-vs-

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

Defendants-Appellees.

TAMARA FILAS Plaintiff-Appellant 6477 Edgewood Rd. Canton, MI 48187 (734) 751-0103 e-mail redacted	MICHAEL C. O'MALLEY (P59108) Attorney for Defendant Efficient Design Vandever Garzia 1450 W. Long Lake Rd., Suite 100 Troy, MI 48098 (248) 312-2940 <a href="mailto:momalley@vgplaw.com">momalley@vgplaw.com</a>
DREW W. BROADDUS (P64658) Attorney for Defendant Culpert Secrest Wardle 2600 Troy Center Drive, P.O. Box 5025 Troy, MI 48007-5025 (616) 272-7966 <a href="mailto:dbroaddus@secrestwardle.com">dbroaddus@secrestwardle.com</a>	JAMES C. WRIGHT (P67613) Attorney for Defendant Efficient Design Zausmer, Kaufman, August & Caldwell, P.C. 31700 Middlebelt Rd., Suite 150 Farmington Hills, MI 48334 (248) 851-4111 <a href="mailto:jwright@zkact.com">jwright@zkact.com</a>

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**PLAINTIFF-APPELLANT'S MOTION TO EXTEND TIME  
FOR FILING REPLY TO DEFENDANT-APPELLEE' EFFICIENT DESIGN,  
INC.'S BRIEF ON APPEAL**

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Plaintiff-Appellant, Tamara Filas, moves this Honorable Court to re-set of the due date for filing Plaintiff-Appellant's Reply to Defendant-Appellee' Efficient Design, Inc.'s Brief on Appeal, from 2-13-14 to 3-4-14, and to grant an additional 14-day extension, making the final due date 3-18-14 for her Reply, for the reason that she was not properly served with Defendant-Appellee' Efficient Design, Inc.'s Brief on Appeal on 1-23-14 to meet the 2-13-14 deadline, and did not receive a copy of the DF-AE's Brief on Appeal (without attachments) until February 11, 2014, and needs the 21 days plus the 14-day extension to file her Reply, and states as follows:

1. On 2-10-14, Tamara Filas, Plaintiff-Appellant ("PL-AT") discovered that the Register of Actions indicated that a filing had been made for party, Efficient Design, Inc., shown on the Register as "*Brief: Appellee,*" by Michael O'Malley, one of the two attorneys representing Defendant-Appellee' Efficient Design, Inc.. The Register indicated a Proof of Service Date of 1-23-14. (Exhibit A, Register of Actions for COA Case No. 317972, see pg. 4).
2. PL-AT did not receive any filings from Mr. O'Malley with a Proof of Service date of 1-23-14.
3. PL-AT only received a 1-20-13 filing from Mr. O'Malley, entitled, "Defendant-Appellee Efficient Design, Inc.'s Answer to Co-Defendant's Motion to Affirm and Request for Consistent Relief," which is accounted for on the Register of Actions under the heading "Motion – Answer" with a Proof of Service date of 1-20-14 (Exhibit A, Register of Actions for COA Case No. 317972, see pg. 3-4).



4. On the evening of 2-10-14, PL-AT sent Mr. O'Malley an e-mail, inquiring about the filing she did not receive shown on the Register of Actions with Proof of Service date of 1-23-14 (Exhibit B, e-mail from Filas to O'Malley dated 2-10-14).
5. Mr. O'Malley replied by e-mail on 2-11-14 that Defendant-Appellee' Efficient Design, Inc.'s Brief on Appeal was filed on 1-20-14. As stated in item 1 above, the Register of Actions indicates the Brief on Appeal to have been filed on 1-23-14 (Exhibit C, e-mail from O'Malley to Filas dated 2-11-14). The Register of Actions indicates that only the Answer to Co-Defendant's Motion to Affirm and Request for Consistent Relief was filed on 1-20-13, not the Brief on Appeal.
6. Mr. O'Malley provided PL-AT with an electronic copy of Defendant-Appellee' Efficient Design, Inc.'s Brief on Appeal in his 2-11-14 e-mailed response, however it was not time-date stamped by the Court of Appeals, as other documents PL-AT has received from him were (Exhibit D, first and last pages of Defendant-Appellee' Efficient Design, Inc.'s Brief on Appeal received by e-mail on 2-11-14). It should also be noted that this copy did not contain the associated exhibits referred to in the filing. PL-AT sent a subsequent e-mail to request the exhibits and a time/date stamped copy of the Brief on Appeal (Exhibit E, 2-11-14 e-mail from Filas to O'Malley).
7. Mr. O'Malley also sent a separate Proof of Service with the e-mailed copy of the Defendant-Appellee' Efficient Design, Inc.'s Brief on Appeal, however, the validity of this Proof of Service is questionable because other documents Mr. O'Malley has filed with the lower court and the Court of Appeals came with a

proof of service that was part of the document itself, contained in small print on the last page of the document. The separate proof of service Mr. O'Malley e-mailed differs from what appears to be the standard practice at his law firm of a "self-contained" Proof of Service within the document being served. It also does not specifically state the document that was served and only refers to "the foregoing" (Exhibit F, Proof of Service e-mailed by Mr. O'Malley 2-11-14; Exhibit G, copies of first and last pages of 3 other documents filed by Mr. O'Malley, showing Proofs of Service contained within the documents themselves).

8. The Proof of Service Mr. O'Malley e-mailed Ms. Filas does not prove specifically that the Brief on Appeal was the document that was actually mailed to PL-AT's address, nor did Mr. O'Malley provide a copy of a certificate of mailing or a certified return receipt to prove mailing. As stated in item #3 above, PL-AT did receive a document mailed on 1-20-14, but it was not the Brief on Appeal.
9. In Mr. O'Malley's 2-11-14 e-mail, he agreed to a 14-day extension for PL-AT to file her Reply to the Defendant-Appellee' Efficient Design, Inc.'s Brief on Appeal.
10. However, considering that PL-AT just received a copy of the Brief on 2-11-14 and was not properly served with a copy on 1-20-14 as Mr. O'Malley claims, or 1-23-14 as the Court of Appeals Register of Actions indicates, PL-AT requests the Court grant her at least 21 days from 2-11-14, to file her Reply to the Defendant-Appellee' Efficient Design, Inc.'s Brief on Appeal, the same amount of time as she would have had if the Brief had been properly served to her.

11. Ms. Filas has had to attend to and is currently attending to numerous legal matters that make it difficult for her to file her Reply to the Defendant-Appellee' Efficient Design, Inc.'s Brief on Appeal even within 21 days from 2-11-14 (the actual date of service) which would be 3-4-14, and requests that the Court grant her an additional 14-day extension beyond 3-4-14, to 3-18-14.
12. Tamara Filas, the undersigned, has filed this case pro se because she has not been able to find an attorney who will help her with the issue(s) argued in this case.
13. She also does not have an attorney representing her in the first-party no fault case, also before the Court of Appeals, which creates an additional burden.
14. She does not have an attorney for any other pending legal issues, including, but not limited to, her four appeals to the Teacher Tenure Commission, and other employment-related legal issues.
15. Tamara Filas is currently not working and her employment status is in dispute.
16. She is primarily dependent upon family for financial support.
17. Preparing a brief is a more difficult and arduous task for anyone who is not an attorney who does not have the staff assistance or the experience of an attorney to prepare unfamiliar legal filings. It takes a tremendous amount of time for Ms. Filas to prepare these filings. The pain and limitations she normally experiences on a daily basis as a result of her auto injuries are exacerbated by the additional physical and mental work and time it takes to prepare the numerous legal filings for ongoing auto accident issues and employment issues, all which have filing deadlines. All of this pressure, coupled with the physical and mental demands this



legal work places upon her, negatively impacts Tamara Filas's physical well-being and makes it difficult for her to keep up with medical appointments and other activities necessary to maintain her health.

18. As explained above, Defendant-Appellee' Efficient Design, Inc.'s Brief on Appeal was not actually served to PL-AT until 2-11-14. Therefore, Appellant requests the due date for Appellant's Reply Brief to be calculated under MCR 7.212(G) to be 3-4-14, which is 21 days from 2-11-14.
19. By this motion, the undersigned also seeks a 14-day extension of time from 3-4-14 (the new calculated due date for her Reply) to 3-18-14, due to other legal matters currently requiring immediate attention, or recently requiring attention, including, but not limited to the items listed below:
  - a. Defendant-Appellee Efficient Design Inc.'s Answer to Co-Defendant's Motion to Affirm and Request for Consistent Relief, Court of Appeals Case No. 317972, due 3-3-14 (if current pending Motion is granted).
  - b. Plaintiff-Appellant's Reply to Defendant-Appellee MEEMIC's Brief on Appeal Court of Appeals Case No. 316822, due 2-14-14.
  - c. Plaintiff-Appellant's Answer to Defendant-Appellee MEEMIC's Motion to Affirm, Court of Appeals Case No. 316822, due 2-6-14.
  - d. Preparing Answer to numerous charges filed against Plaintiff-Appellee by Dearborn Heights District No. 7. Statement about tenure charges delivered February 3, 2014 and attendance at Board meeting February 3, 2014, 7 p.m.
  - e. Preparing informational packets for the Board of Education prior to February 3, 2014 Board meeting.
  - f. Plaintiff-Appellant's Reply to Defendant-Appellee Thomas K. Culpert's Brief on Appeal, Court of Appeals Case No. 317972, due 1-30-14.
  - g. Plaintiff-Appellant's Answer to Defendant-Appellee Thomas K. Culpert's Motion to Affirm, Court of Appeals Case No. 317972, due 1-21-14.

- h. Answer to Motion for Summary Disposition for Tamara Filas's Appeal #4 to the State Tenure Commission, due 1-17-14
  - i. Answer to Motion to Strike Amendment for Tamara Filas's Appeals #1-3 to the State Tenure Commission, due 1-17-14
  - j. Extensive letter mailed 12-30-13 to Providence Park Hospital and Medical Financial Solutions regarding erroneous billing of health care services.
  - k. Motion for Discovery in Tamara Filas's Appeal #4 to the State Tenure Commission, due 12-27-13.
  - l. Emergency Motion to Change venue of hearing for Tamara Filas's Appeals #1-3 to the State Tenure Commission, filed 12-16-13
  - m. Further exhibits submitted in Tamara Filas's Appeal to the State Tenure Commission, filed 12-16-13
  - n. Amendment to Tamara Filas's Appeal to the State Tenure Commission, filed 12-11-13.
  - o. Motion for Discovery in Tamara Filas's Appeals #1-3 to the State Tenure Commission, due 12-11-13.
  - p. Pending Open Meetings Act Case, Circuit Court case no. 13-015739-CZ, filed 12-6-13, that requires additional action.
  - q. Time needed to research health insurance under the Affordable Care Act since Appellant's private insurance was cancelled by BC/BS.
20. If Defendant-Appellee' Efficient Design, Inc.'s Brief on Appeal had been properly served to PL-AT on 1-23-14, PL-AT's reply would be due 2-13-14. PL-AT requests the court consider the actual date of service to be 2-11-14 (the date PL-AT actually received a copy of the brief, minus the exhibits), and re-set the due date for PL-AT's Reply to 3-4-14 (21 days after 2-11-14).

21. PL-AT requests an additional 14-day extension beyond the re-set due date of 3-4-14, to 3-18-14, due to the multitude of legal matters she has to attend to.
22. Plaintiff-Appellant, thus, respectfully seeks this additional time in order to complete and timely file her Reply to Defendant-Appellee' Efficient Design, Inc.'s Brief on Appeal in this important matter, such that the due date for filing would be extended until March 18, 2014.

WHEREFORE, Plaintiff-Appellant, Tamara Filas, respectfully requests this Court to extend the time for filing her Reply to Defendant-Appellee' Efficient Design, Inc.'s Brief on Appeal, to March 18, 2014.

Respectfully submitted,

signature  
redacted

2-12-14  
Date

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

e-mail redacted



# Exhibit A

Home Cases, Opinions &amp; Orders

# Case Search

Case Docket Number Search Results - 317972

Appellate Docket Sheet

**COA Case Number: 317972**

TAMARA FILAS V KEVIN THOMAS CULPERT

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1	FILAS TAMARA	PL-AT	PRO	
2	CULPERT KEVIN THOMAS	DF-AE	RET	(64658) <b>BROADDUS DREW W</b> 2600 TROY CENTER DRIVE TROY MI 48084 (248) 851-9500
3	EFFICIENT DESIGN INC	DF-AE	RET	(59108) <b>O'MALLEY MICHAEL C</b> 1450 W LONG LAKE RD SUITE 100 TROY MI 48098 (248) 312-2800
			CO	(67613) <b>WRIGHT JAMES C</b> 31700 MIDDLEBELT RD SUITE 150 FARMINGTON HILLS MI 48334-2374 (248) 851-4111

---

**COA Status:** OPEN

**Remarks:** Ptys Agree to E-Service

- 08/30/2013 1 Claim of Appeal - Civil  
Proof of Service Date: 08/30/2013  
Jurisdictional Checklist: Y  
Register of Actions: Y  
Comments: Pd cash receipt #175643
- 08/09/2013 2 Order Appealed From  
From: WAYNE CIRCUIT COURT  
Case Number: 13-000652-NI  
Trial Court Judge: 11016 BORMAN SUSAN D  
Nature of Case:  
Dismissal
- 07/08/2013 6 Steno Certificate - Tr Request Received  
Date: 06/28/2013  
Timely: Y  
Reporter: 5518 - BAMONTE MARGARET P  
Hearings:  
06/21/2013 Motion Hrng
- 07/08/2013 7 Notice of Filing Transcript  
Date: 07/03/2013  
Timely: Y  
Reporter: 5518 - BAMONTE MARGARET P

Hearings:  
06/21/2013 Motion Hrng

07/10/2013 8 Steno Certificate - Tr Request Received  
Date: 06/28/2013  
Timely: Y  
Reporter: 31 - SKINNER MARY E  
Hearings:  
06/24/2013 Special Conference

07/29/2013 9 Notice of Filing Transcript  
Date: 07/23/2013  
Timely: Y  
Reporter: 31 - SKINNER MARY E  
Hearings:  
06/24/2013 Special Conference

08/28/2013 10 Transcript Requested by Atty or Party  
Date: 08/28/2013  
Timely: Y  
Reporter: 5518 - BAMONTE MARGARET P  
Hearings:  
08/09/2013

08/30/2013 3 Correspondence Received  
Date: 08/23/2013  
For Party: 1 FILAS TAMARA PL-AT  
Filed By Pro Per  
Comments: Requested tr for 8/9/13

08/30/2013 4 Transcript Requested by Atty or Party  
Date: 06/28/2013  
Timely: Y  
Reporter: 31 - SKINNER MARY E  
Hearings:  
06/24/2013 Special Conference

08/30/2013 5 Transcript Requested by Atty or Party  
Date: 06/28/2013  
Timely: Y  
Reporter: 5518 - BAMONTE MARGARET P  
Hearings:  
06/21/2013 Motion Hrng

08/30/2013 11 Steno Certificate - Tr Request Received  
Date: 08/28/2013  
Timely: Y  
Reporter: 5518 - BAMONTE MARGARET P  
Hearings:  
08/09/2013

09/27/2013 12 Docketing Statement MCR 7.204H  
For Party: 1 FILAS TAMARA PL-AT  
Proof of Service Date: 09/27/2013  
Filed By Pro Per

10/04/2013 13 Appellee Appearance Letter Sent CI-124

10/04/2013 14 Appearance - Appellee  
Date: 10/04/2013  
For Party: 2 CULPERT KEVIN THOMAS DF-AE  
Attorney: 64658 - BROADDUS DREW W



- 10/08/2013 15 Appearance - Appellee  
Date: 10/08/2013  
For Party: 3 EFFICIENT DESIGN INC DF-AE  
Attorney: 59108 - O'MALLEY MICHAEL C
- 10/10/2013 16 Appearance - Appellee  
Date: 10/10/2013  
For Party: 3 EFFICIENT DESIGN INC DF-AE  
Attorney: 67613 - WRIGHT JAMES C  
Comments: Re: Pty 3
- 10/14/2013 17 Telephone Contact  
For Party: 3 EFFICIENT DESIGN INC DF-AE  
Attorney: 59108 - O'MALLEY MICHAEL C  
Comments: Aty confirmed his office w/be handling all filings and for Crt's purposes can be listed as lead cnsI
- 10/24/2013 18 Motion: Extend Time - Appellant  
Proof of Service Date: 10/24/2013  
Filed By Pro Per  
For Party: 1 FILAS TAMARA PL-AT  
Requested Extension: 12/20/2013  
Answer Due: 10/31/2013  
Comments: Filing pd in cash - Rcpt #175651/\$100.00
- 10/29/2013 19 Submitted On Administrative Motion Docket  
Event: 18 Extend Time - Appellant  
District: D
- 10/30/2013 20 Order: Extend Time - Appellant Brief - Grant  
View document in PDF format  
Event: 18 Extend Time - Appellant  
Panel: ELG  
Extension Date: 12/20/2013
- 12/04/2013 21 Transcript Complete per Coa Atty Review  
Date: 12/04/2013  
Comments: Per LC Register of Actions the 8/9/13 Transcript was Filed on 8/30/13
- 12/20/2013 22 Brief: Appellant  
Proof of Service Date: 12/20/2013  
Oral Argument Requested: Y  
Timely Filed: Y  
Filed By Pro Per
- 12/30/2013 23 Motion: Affirm  
Proof of Service Date: 12/30/2013  
Filed By Attorney: 64658 - BROADDUS DREW W  
For Party: 2 CULPERT KEVIN THOMAS DF-AE  
Fee Code: EPAY  
Answer Due: 01/20/2014
- 12/30/2013 24 Record Request  
Mail Date: 01/13/2014
- 01/09/2014 25 Brief: Appellee(Multiple)  
Proof of Service Date: 01/09/2014  
Oral Argument Requested: Y  
Timely Filed: Y  
Filed By Attorney: 64658 - BROADDUS DREW W  
For Party: 2 CULPERT KEVIN THOMAS DF-AE
- 01/20/2014 26 Answer - Motion  
Proof of Service Date: 01/20/2014

2/11/2014

Case Search

Event No: 23 Affirm  
For Party: 3 EFFICIENT DESIGN INC DF-AE  
Filed By Attorney: 59108 - O'MALLEY MICHAEL C

Continued  
from pg. 3

01/21/2014 27 Answer - Motion

Proof of Service Date: 01/21/2014

Event No: 23 Affirm  
For Party: 1 FILAS TAMARA PL-AT

01/23/2014 28 Brief: Appellee

Proof of Service Date: 01/23/2014

Oral Argument Requested: Y

Timely Filed: Y

Filed By Attorney: 59108 - O'MALLEY MICHAEL C  
For Party: 3 EFFICIENT DESIGN INC DF-AE

01/24/2014 29 Noticed

Record: REQST

01/28/2014 30 Telephone Contact

Comments: Per kathy heilmiller trnsmtl fee paid 1/24/14;coa should recv appx friday

01/30/2014 33 Brief: Reply

Proof of Service Date: 01/30/2014

Filed By Pro Per

Comments: Reply to appe Thomas K Culpert's brf

01/31/2014 31 Material Received by Record Room

Comments: file;trs(2)

01/31/2014 32 Email Contact

Comments: Per: kathy heimiller @wcc to ck with court rep for tr of 6/24/13

01/31/2014 34 Transcript Requested by Atty or Party

Date: 01/30/2014

Timely: N

Reporter: 5518 - BAMONTE MARGARET P

Hearings:

05/02/2013 Motion Hrng

02/03/2014 35 Correspondence Sent

Date: 02/03/2014

For Party: 1 FILAS TAMARA PL-AT

Filed By Pro Per

Comments: Tr late ltr - see evt 34

02/03/2014 37 Steno Certificate - Tr Request Received

Date: 01/30/2014

Timely: N

Reporter: 5518 - BAMONTE MARGARET P

For Event #: 34

Hearings:

05/02/2013 Motion Hrng

02/04/2014 36 Submitted On Motion Docket

Event: 23 Affirm

District: D

Item #: 12

02/06/2014 38 Motion: Reply to Answer

Proof of Service Date: 01/21/2014

Filed By Pro Per

For Party: 1 FILAS TAMARA PL-AT

Answer Due: 01/28/2014

Comments: To Motion to Affirm; Filing Fee Pd in Cash - Rcpt #175681

Case Listing Complete



# Exhibit B



T Filas &lt;filastamd7@gmail.com&gt;

**URGENT---Stipulation Needed 2-11-14 to Extend Due Date of Reply Brief, COA #317972**

1 message

**T Filas** <e-mail redacted>  
To: momalley@vgpclaw.com

Mon, Feb 10, 2014 at 11:49 PM

6477 Edgewood

Canton, MI 48187

February 10, 2014

Michael C. O'Malley

Vandevæer Garzia

1450 W. Long Lake Rd., Suite 100

Troy, MI 48098

Sent via e-mail

**RE: Urgent---Stipulation Needed 2-11-14 to Extend Due Date of Reply Brief, COA #317972**

Dear Mr. O'Malley,

I was looking at the Register of Actions for Court of Appeals Case No. 317972, *Tamara Filas vs. Kevin Culpert and Efficient Design, Inc.*, and it indicates that you filed Appellee, Efficient Design's Brief on January 23, 2014. I was not served with this filing.

The due date for my reply to this Brief is February 13, 2014. Therefore, I am asking that you please serve the Brief to me again on Tuesday, February 11, 2014, and sign my name to an e-filed stipulation that my Reply Brief will be due Tuesday, March 4, 2014. I would greatly appreciate it as I do not have access to e-filing and would have to drive to the court to submit the stipulation. I apologize for the late notice, but I just discovered I didn't have a copy of your brief tonight. The stipulation would have to be e-filed by 5:00 p.m. Tuesday, February 11, 2014.

Please e-mail me a copy of the e-filed stipulation with the COA date/time stamp in the margin.

Thank you for your time and assistance in resolving this matter.

Respectfully,

Tamara Filas



# Exhibit C



**URGENT---Stipulation Needed 2-11-14 to Extend Due Date of Reply Brief, COA #317972**

Michael C. OMalley <MOMalley@vgpclaw.com>

Tue, Feb 11, 2014 at 9:56 AM

To: T Filas <e-mail redacted>

Cc: "Broaddus, Drew" <dbroaddus@secrestwardle.com>, "James C. Wright" <JWright@zkac.com>

Dear Ms. Filas:

Defendant's Brief on Appeal was placed in the US Postal System on January 20, 2014, pursuant to the Court Rules. The brief was mailed to you at the address you have identified. Attached is a copy of the Proof of Service, filed with the Court of Appeals. For your convenience, I have also attached a copy of the Brief, itself. It is my position that my client has complied fully with the requirements of the Court Rules.

I am not in a position, nor am I inclined, to handle the preparation and filing of a stipulation for your benefit. However, out of courtesy (which has not been returned to the defendants, in any manner, during the course of this litigation) I will agree to the extension of time for the filing of your Reply Brief, within the Court Rules. Pursuant to IOP 7.212(G)-1, it is my understanding that the Court of Appeals will extend the time for filing a Reply up to 14 days. Accordingly, the stipulation should reflect February 27, 2014, as the due date. Please forward an appropriate stipulation for my review. I will endeavor to respond as soon as feasible as my practice takes me out of the office today and tomorrow morning. Alternatively, you may file your motion and reflect in the motion that I do not object to a 14 day extension to file your Reply.

You will note that today is February 11, 2014. You calculate that your Reply to our Brief on Appeal is due on February 13, 2014. It would appear that you have 2 days to find time to prepare a stipulation, get my approval, and deliver the stipulation to the Court of Appeals or to file your motion. There is no 5:00 pm deadline on February 11, 2014, as you indicate.



**MICHAEL C. O'MALLEY**

**VANDEVEER GARZIA, P.C.**

**1450 W. Long Lake Road**

**Suite 100**

Troy, MI 48098

Direct: 248-312-2940

Main: 248-312-2800

Fax: 248-267-1242

[momalley@vgpclaw.com](mailto:momalley@vgpclaw.com)

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1450 West Long Lake Road, Suite 100 | Troy, Michigan 48098  
Telephone: 248.312.2800 | Fax: 248.267.1242  
[www.VGpcLAW.com](http://www.VGpcLAW.com)



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**From:** T Filas [mailto:[e-mail redacted](mailto:e-mail redacted)]  
**Sent:** Monday, February 10, 2014 11:50 PM  
**To:** Michael C. OMalley  
**Subject:** URGENT---Stipulation Needed 2-11-14 to Extend Due Date of Reply Brief, COA #317972

[Quoted text hidden]

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**2 attachments**

 **Brief on Appeal.pdf**  
158K

 **POS Brief on Appeal.docx**  
46K



# Exhibit D

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.

---

Tamara Filas  
In Pro Per  
6477 Edgewood  
Canton, MI 48187

MICHAEL C. O'MALLEY (P59108)  
JENNIFER L. MCGRATH (P75734)  
**Vandever Garzia, PC**  
Attorneys for Efficient Design  
1450 West Long Lake Road, Suite 100  
Troy, MI 48098  
(248) 312-2800; FAX (248) 267-1242  
[momalley@vgpclaw.com](mailto:momalley@vgpclaw.com)

JAMES C. WRIGHT (P67613)  
Attorney Efficient Design  
Zausmer, Kaufman, August & Caldwell  
31700 Middlebelt Road, Suite 150  
Farmington Hills, MI 48334  
(248) 851-4111 fax 0100  
[jwright@zkact.com](mailto:jwright@zkact.com)

DREW BROADDUS (P64658)  
Attorney for Culpert  
2600 Troy Center Drive, P.O. Box 5025  
Troy, MI 48007-5025  
(616) 272-7966 fax 248-251-1829  
[dbroaddus@secrestwardle.com](mailto:dbroaddus@secrestwardle.com)

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**DEFENDANT-APPELLEE EFFICIENT DESIGN, INC.'S, BRIEF  
ON APPEAL TO MICHIGAN COURT OF APPEALS**

**ORAL ARGUMENT REQUESTED**

knowledge and belief.

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

VANDEVEER GARZIA P. C.

# Exhibit E





## URGENT---Stipulation Needed 2-11-14 to Extend Due Date of Reply Brief, COA #317972

T Filas <e-mail redacted>  
To: "Michael C. O'Malley" <MOMalley@vgpclaw.com>

Tue, Feb 11, 2014 at 4:20 PM

Dear Mr. O'Malley,

Thank you for your prompt response, although I am not sure why you felt the need to make the comment that I have not been courteous to you or the other Defendants. I have treated you and the other attorneys with nothing but respect and courtesy.

You stated that Defendant's Brief on Appeal was placed in the US postal system on January 20, 2014. However, as I stated in my previous e-mail, the Register of Actions indicates the Proof of Service date to be January 23, 2014 for the submission of Defendant's Brief on Appeal. If it had been submitted on January 20, 2014, the due date for my reply would have been yesterday, February 10, 2014, and I would already be too late.

A Proof of Service should state the document that was served. The attached, e-mailed Proof of Service you sent me today indicates a service date of January 20, 2014, but does not indicate what document was served. Let me clear that I did receive a document from your office that was served on 1-20-14, but it was entitled "Defendant-Appellee Efficient Design, Inc.'s Answer to Co-Defendant's Motion to Affirm and Request for Consistent Relief," which is clearly not the same document as "Defendants Brief on Appeal." Further, this document is shown on the Register of Actions as "ANSWER – MOTION" with service date of 1-20-14, so it is clearly accounted for.

The document served to me and the COA on 1-20-14, "Defendant-Appellee Efficient Design, Inc.'s Answer to Co-Defendant's Motion to Affirm and Request for Consistent Relief," came with a proof of service that was part of the document itself, contained in small print on page 18 of the document, just like a couple of the other documents you filed with the courts. The proof of service you e-mailed me today is a completely separate document from the brief and differs from what appears to be the standard practice at your law firm of a "self-contained" Proof of Service within the document being served.

Also, the copy of Defendant's Brief on Appeal you e-mailed today does not include the time date stamp on in the left margin to prove when it was actually filed with the court of appeals. As previously stated, the Register of Actions states that this brief was filed on 1-23-14, not 1-20-14, as you have stated. **Please send me a copy of Defendant's Brief on Appeal that contains the time date stamp from the Court of Appeals so I can verify the true due date of my Reply. I also will need a copy of the exhibits that correspond with the Brief which were not attached to the e-mail.**

Since time is of the essence to request an extension of my filing due date for my reply to Defendant's Brief on Appeal dated 1-23-14, and the discrepancies between my view of the facts and your view of the facts concerning the 1-20-14 filing and the 1-23-14 filing (for which I am requesting an extension to file), I cannot rely upon a stipulation from you.

Thereby, I will handle the request for the extension of the filing date for my reply to the 1-23-14 Defendant's Brief on Appeal without your stipulation.

Thank you for your attention to this matter.

Respectfully,

Tamara Filas

[Quoted text hidden]

# Exhibit F



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.

Tamara Filas  
In Pro Per  
6477 Edgewood  
Canton, MI 48187

MICHAEL C. O'MALLEY (P59108)  
JENNIFER L. MCGRATH (P75734)  
**Vandever Garzia, PC**  
Attorneys for Efficient Design  
1450 West Long Lake Road, Suite 100  
Troy, MI 48098  
(248) 312-2800; FAX (248) 267-1242  
[momalley@vgpclaw.com](mailto:momalley@vgpclaw.com)

JAMES C. WRIGHT (P67613)  
Attorney Efficient Design  
Zausmer, Kaufman, August & Caldwell  
31700 Middlebelt Road, Suite 150  
Farmington Hills, MI 48334  
(248) 851-4111 fax 0100  
[jwright@zkact.com](mailto:jwright@zkact.com)

DREW BROADDUS (P64658)  
Attorney for Culpert  
2600 Troy Center Drive, P.O. Box 5025  
Troy, MI 48007-5025  
(616) 272-7966 fax 248-251-1829  
[dbroaddus@secrestwardle.com](mailto:dbroaddus@secrestwardle.com)

**PROOF OF SERVICE**

The undersigned certifies that the foregoing was served on Clerk of the Court of Appeals, attorney James C. Wright and attorney Drew Broaddus via the court's efilng system on January 20, 2014 and on Plaintiff Tamara Filas at the address listed above with postage paid via the USPS on January 20, 2014.

I declare that the statement above is true to the best of my information,



knowledge and belief.

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

VANDEVEER GARZIA P. C.

# Exhibit G

STATE OF MICHIGAN

IN THE MICHIGAN COURT OF APPEALS

TAMARA FILAS,

Plaintiff,

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.

Tamara Filas  
In Pro Per  
6477 Edgewood  
Canton, MI 48187

MICHAEL C. O'MALLEY (P59108)  
JENNIFER L. MCGRATH (P75734)  
**Vandever Garzia, PC**  
Attorneys for Defendant Efficient Design  
1450 West Long Lake Road, Suite 100  
Troy, MI 48098  
(248) 312-2800

JAMES C. WRIGHT (P67613)  
Attorney for Efficient Design  
31700 Middlebelt Road, Suite 150  
Farmington Hills, MI 48334  
(248) 851-4111 fax 0100

AHMED M. HASSOUNA (P67995)  
Attorney for Culpert  
340 E. Big Beaver Road, Suite 250  
Troy, MI 48083  
(248) 764-1127

APPEARANCE

TO: CLERK OF THE COURT  
Tamara Filas

PLEASE ENTER the Appearance of the following two attorneys in the above-entitled cause of action as counsel for Defendant/Appellee Efficient Design, Inc.:

MICHAEL C. O'MALLEY (P59108)  
JENNIFER L. MCGRATH(P75734)

VANDEVEER GARZIA P. C.

RECEIVED BY MICHIGAN COURT OF APPEALS 10/02/2013 11:57:13 AM

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 by regular mail system on October 08, 2013. I declare under penalty of perjury that the statement above is true to the best of my information, knowledge and belief.

/s/Kimberly Coomer

VANDEVEER GARZIA P.C.



VANDEVEER GARZIA P. C.

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.

Tamara Filas  
In Pro Per  
6477 Edgewood  
Canton, MI 48187

MICHAEL C. O'MALLEY (P59108)  
JENNIFER L. MCGRATH (P75734)  
**Vandevveer Garzia, PC**  
Attorneys for Efficient Design  
1450 West Long Lake Road, Suite 100  
Troy, MI 48098  
(248) 312-2800; FAX (248) 267-1242  
[momalley@vgpclaw.com](mailto:momalley@vgpclaw.com)

JAMES C. WRIGHT (P67613)  
Attorney Efficient Design  
Zausmer, Kaufman, August & Caldwell  
31700 Middlebelt Road, Suite 150  
Farmington Hills, MI 48334  
(248) 851-4111 fax 0100  
[jwright@zkact.com](mailto:jwright@zkact.com)

DREW BROADDUS (P64658)  
Attorney for Culpert  
2600 Troy Center Drive, P.O. Box 5025  
Troy, MI 48007-5025  
(616) 272-7966 fax 248-251-1829  
[dbroaddus@secrestwardle.com](mailto:dbroaddus@secrestwardle.com)

**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.

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

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

FILED IN MY OFFICE  
WAYNE COUNTY CLERK

6/17/2013 3:16:29 PM

CATHY M. GARRETT

Tamara Filas  
Plaintiff  
6477 Edgewood Rd.  
Canton, MI 48187  
(734) 751-0103

JAMES C. WRIGHT (P67613)  
Attorney for Efficient Design  
31700 Middlebelt Road, Suite 150  
Farmington Hills, MI 48334  
(248) 851-4111 fax 0100

MICHAEL C. O'MALLEY (P59108)  
**Vandever Garzia, PC**  
Attorney for Efficient Design  
1450 West Long Lake Road, Suite 100  
Troy, MI 48098  
(248) 312-2800/ (248)267-1242 (fax)

AHMED M. HASSOUNA (P67995)  
Attorney for Culpert  
340 E. Big Beaver Road, Suite 250  
Troy, MI 48083  
(248) 764-1127

**DEFENDANT EFFICIENT DESIGN'S RESPONSE TO PLAINTIFF'S MOTION TO  
COMPEL DEFENDANT CULPERT TO RETURN DISCOVERY MATERIALS AND  
DEFENDANT'S REQUEST FOR SANCTIONS**

NOW COMES Defendant Efficient Design, Inc., by and through its co-counsel, Vandever Garzia, PC, and for its response to Plaintiff's Motion to Compel Defendant Culpert to Return Discovery Materials, states as follows:

1. Neither admitted nor denied. Defendant leaves Plaintiff to her strict proofs.
2. Neither admitted nor denied. Defendant leaves Plaintiff to her strict



VANDEVEER GARZIA, P.C.

/s/ Jennifer L. McGrath  
MICHAEL C. O'MALLEY (P59108)  
JENNIFER L. MCGRATH (P75734)  
Vandevveer Garzia, P.C.  
Attorneys for Defendant  
1450 W. Long Lake Road, Ste. 100  
Troy, MI 48098  
(248) 312-2800

Dated: June 17, 2013

**PROOF OF SERVICE**

Suzanne C. Iannucci, says that she is associated with the law firm of VANDEVEER GARZIA, and that on June 17, 2013, a copy of **Defendant Efficient Design's Response to Plaintiff's Motion to Compel Defendant Culpert to Return Discovery Materials and this Proof of Service** was served upon the attorneys of record of all parties to the above cause via hand-filing/deliver and First Class Mail. I declare under the penalty of perjury that the statement above is true to the best of my information, knowledge, and belief.

/s/ Suzanne C. Iannucci  
Suzanne C. Iannucci  
Vandevveer Garzia, P.C.  
1450 W. Long Lake, Ste. 100  
Troy, MI 48098  
(248) 312-2800  
cihodes@vnpclaw.com