

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.

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| 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 840 W. Long Lake Rd., Suite 600 Troy, MI 48098 (248) 312-2940 momalley@vgpclaw.com |
| 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 dbroaddus@secrestwardle.com | 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 jwright@zkact.com |

**PLAINTIFF-APPELLANT'S MOTION FOR LEAVE TO FILE REPLY(IES) TO
DEFENDANT-APPELLEE'S ANSWER(S) TO PLAINTIFF'S MOTION FOR
RECONSIDERATION**

Plaintiff-Appellant, Tamara Filas, for her Motion for Leave to File Reply(ies) to DF-AE's Answer(s) to PL-AT's Motion for Reconsideration, states the following:

1. On 12-16-14, PL-AT filed a Motion for Reconsideration of the COA's 11-25-14 Order to partially grant DF-AE Kevin Culpert's Motion to Affirm.
2. On 12-22-14, Drew Broaddus, attorney for DF-AE Kevin Culpert, filed an Answer to PL-AT's Motion for Reconsideration.
3. On 1-2-15, PL-AT filed a reply to Mr. Broaddus's Answer entitled "PLAINTIFF-APPELLANT'S REPLY TO DEFENDANT- APPELLEE KEVIN THOMAS CULPERT'S ANSWER TO PLAINTIFF'S MOTION FOR RECONSIDERATION" at the Detroit branch of the Court of Appeals.
4. The aforementioned filing was dated 12-31-14, and served on the three defense attorneys on 12-31-14: Drew Broaddus, James Wright and Michael O'Malley.
5. On 1-6-15, PL-AT received a voice message from Denitra (sp) at the Court of Appeals, asking for PL-AT to return her call.
6. Upon speaking to Denitra later in the afternoon on 1-6-15, PL-AT was informed that her 12-31-14 Reply Brief filed 1-2-15 would either have to be returned to her, or she would need to file a motion for permission to file it because there are no provisions in the court rules to file a reply to an answer.
7. PL-AT informed Denitra that she would file the motion and that she did not want her Brief returned. PL-AT agreed to have her Motion for Leave to File the Reply Brief submitted to the Court of Appeals no later than Tuesday, January 13, 2015.

8. Mr. Broaddus's 12-22-14 "Defendant-Appellee Kevin Thomas Culpert's Answer to Plaintiff's Motion for Reconsideration," for which PL-AT requests leave to file a reply, is fallacious and contains erroneous information not supported by fact.
9. The erroneous information or statements made by the Defendants will remain available in the public record. If PL-AT is not granted leave to file a reply, these erroneous statements or information could cause harm to Plaintiff and/or others who consider them as fact, if not able to be addressed as untrue or rebutted in her Reply to DF-AE's Answer to her Motion for Reconsideration.
10. Further, Mr. Broaddus's 12-22-14 Answer contains new arguments that have never been presented in any other filings in the lower court or the COA, such as that PL-AT's case should be handled under federal laws instead of state and local laws. Technically, since it was Mr. Broaddus's Motion to Affirm that was granted and dismissed PL-AT's case, and that is the Motion decision for which PL-AT has filed a Motion for Reconsideration, Mr. Broaddus should not be able to bring up new reasons why PL-AT's case should be dismissed, that were never mentioned in his Motion to Affirm. Since he has done so, it would only be just that PL-AT should be able to reply to them.
11. For the reasons stated in 8-10 above, PL-AT requests the Court to accept her already filed 12-31-14 Reply.
12. There are three attorneys in this case, Drew Broaddus, Michael O'Malley and James Wright. Each attorney represents a different insurance company. Therefore, potentially all three attorneys could file an answer to PL-AT's Motion for Reconsideration.
13. As of the date of this filing, 1-12-15, PL-AT has only been served with an Answer from DF-AE Kevin Culpert's attorney, Drew Broaddus.

14. When PL-AT served the three attorneys with her 12-16-14 Motion for Reconsideration, PL-AT was not informed that attorney, Michael O'Malley's address had changed since she last served him with a filing on 11-7-14 until she was notified by the Court of Appeals in a letter dated 12-29-14 and had called the court clerk on 12-30-14 prior to receiving the letter after seeing it mentioned on the Register of Actions online.
15. After learning that Mr. O'Malley had a different address, Mr. O'Malley was served with a hand-delivered copy of PL-AT's 12-16-14 Motion for Reconsideration on 12-30-14.
16. There was no indication by the USPS that the 11-7-14 mailing to Mr. O'Malley had been forwarded to a different address (Exhibit A, Certified Mail Receipt, Return receipt and USPS tracking information for 11-7-14 mailing to Mr. O'Malley at 1450 W. Long Lake Rd., Suite 100).
17. According to the Court of Appeals, Michael O'Malley's new address is 840 W. Long Lake Rd., Suite 600 in Troy, MI. His previous address was 1450 W. Long Lake Rd., Suite 100 in Troy, MI.
18. However, after signing up for an e-filing account with Odyssey File & Serve for the Court of Appeals on 1-12-15, PL-AT has discovered that the address appearing in the filing contacts under this case for Mr. O'Malley within Odyssey File & Serve is his old address at 1450 W. Long Lake Rd., Suite 100 (Exhibit B, screen shot from Odyssey File & Serve showing old address for Mr. O'Malley). If Mr. O'Malley is still using that address, then PL-AT cannot be accused of having sent the 12-16-14 filing to the wrong address.

19. Strangely, the 12-16-14 copy of PL-AT's Motion for Reconsideration, mailed to Mr. O'Malley at 1450 W. Long Lake Rd., Suite 100, has never been returned to PL-AT, as is the standard procedure by the USPS if mail is unclaimed for more than 14 days. According to USPS, the last action was "Departed USPS Origin Facility" on 12-18-14 (Exhibit C, Certified Mail Receipt and USPS Tracking information).
20. For the reasons stated in #16, 18, and 19 above, PL-AT questions whether or not mail for Mr. O'Malley may still be accepted at his "old" address.
21. The time has expired for Mr. Wright to file an answer to PL-AT's 12-16-14 Motion for Reconsideration. If PL-AT truly served Mr. O'Malley at the wrong address at 1450 W. Long Lake Rd., Suite 100, then Mr. O'Malley can file an Answer to PL-AT's Motion for Reconsideration until 1-13-15. However, if it is determined that 1450 W. Long Lake Rd., Suite 100 is a valid service address for Mr. O'Malley, then his time to Answer PL-AT's Motion for Reconsideration would also have expired.
22. If Michael O'Malley (or another attorney on his behalf) is allowed by the Court to file an Answer to PL-AT's Motion for Reconsideration for DF-AE Efficient Design, Inc., PL-AT requests the opportunity to file a reply to the Answer to PL-AT's Motion for Reconsideration, to be due 14 days after the date of service of the Answer.

WHEREFORE, PL-AT respectfully requests the Court of Appeals to grant leave to file reply(ies) to DF-AE's Answer(s) to PL-AT's Motion for Reconsideration; accept the 12-31-14 "PLAINTIFF-APPELLANT'S REPLY TO DEFENDANT- APPELLEE KEVIN THOMAS CULPERT'S ANSWER TO PLAINTIFF'S MOTION FOR RECONSIDERATION," filed on 1-2-15, as timely filed; and to allow 14 days for PL-AT to file a reply to DF-AE Efficient Design

Inc.'s Answer, if Mr. O'Malley or another attorney on his behalf is allowed by the COA to file an answer, given the circumstances presented above concerning a viable service address for Mr. O'Malley.

Respectfully submitted,

signature
redacted

1-12-15
Date

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