

Exhibit F

8. Plaintiff's Complaint is barred in whole or in part by the Doctrine of Release.
9. Plaintiff's Complaint is barred in whole or in part by the Last Clear Chance Doctrine.
10. Defendant maintains that it is entitled to reimbursement of costs and attorney fees pursuant to MCR 2.625(2) because the claims brought are frivolous within the meaning of that court rule.
11. Under the terms, conditions and provisions of the so-called No-Fault Act, MCLA 500.3101, et seq., Plaintiff may not recover against the Defendant for items of economic expense including, but not limited to, medical, hospital, drug bills, lost earnings and lost earning capacity.
12. Another person or entity is at fault, whether a party or non-party, and pursuant to MCL 600.2957 and MCR 2.112(K), fault must be allocated to them.
13. Venue is improper.
14. Sudden emergency.
15. Defendants are not an owner of the vehicle involved in the accident.
16. Defendant Culpert was not an agent of Defendant Efficient Design, Inc. and was not in the course and scope of his employment when the alleged accident occurred.
17. Further, Defendant reserves the right to file further Affirmative Defenses which may be revealed by 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
(248) 851-4111

Dated: February 5, 3013

Exhibit G



RECORDS DEPOSITION SERVICE

PO Box 5054
Southfield, Michigan 48086-5054
P: 248.357.3330 F: 248.357.3337

MEDICAL AUTHORIZATION

Tamara Filas
(Patient Name)

redacted
(Date of Birth)

XXX-XX-
(Social Security Number) redacted

I hereby authorize

University of Michigan Medical Center
(Hospital/Health Care Provider/Doctor Name)

To Director or Designee, or Medical Record Department, to release information contained in my patient records, including alcohol and drug abuse records protected under the requirements in Code 42 or Federal Regulations, Part 2 if any, Psychological Services Records, if any, Social Services Records, if any, Psychiatric Records, if any, including communications made by me to a Social Worker, Psychologist or Psychiatrist, if any, Human Immunodeficiency Virus (HIV), Acquired Immunodeficiency Syndrome (AIDS), and AIDS Related Complex (ARC) Records, if any, Communicable Disease and Serious Communicable Disease and Infections, Venereal Diseases, Tuberculosis, Hepatitis B, Sickle Cell Anemia Records, if any, to

RECORDS DEPOSITION SERVICE, INC., PO Box 5054, Southfield, MI 48086-5054

Note: Disclosure is to be made to Records Deposition Service, Inc. only. All other disclosures are unauthorized!

- Information to be disclosed: Please see enclosed Subpoena or Letter Request for information to be disclosed. Only an attached subpoena or letter request exclusively from Simon Klawnski will validate this authorization.
- The purpose and need for such disclosure: For Discovery Before Trial.
- This Authorization is subject to revocation at any time by contacting Records Deposition Service, Inc. in writing. I understand that the revocation will not apply to information that has already been released in response to this Authorization.
- Without expressed revocation, this authorization expires on the date set forth 7-25-13 or the following event. Once information is disclosed, no further information can be disclosed pursuant to this authorization.
- I understand the charges that apply to this assignment, payment agreement is attached hereto and I, whom I sign the form.
- A photocopy of this document that is considered valid as if the original were offered. This Authorization is only valid if submitted by Records Deposition Service, Inc. I understand that information used or disclosed pursuant to this authorization may be subject to re-disclosure by the recipient and may no longer be protected by Federal or State Law. Records Deposition Service, Inc. is not liable for damages as the result of an unauthorized disclosure.
- RDS is authorized to exclusively copy records for and re-disclose records to Simon Klawnski only, and no other entity or person.

X signature redacted
Signature of Patient

X Tamara Filas
Printed Name

X 4-26-13
Date Signed

Signature of Parent/Guardian/Personal Representative

Printed Name

Date Signed

Knowledge by Patient

Notary

[Signature]
Notary Public
My Commission Expires

Notary Public

County

My Commission Expires

Exhibit H

1 STATE OF MICHIGAN
2 IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE
3 CIVIL DIVISION

4 TAMARA FILAS,
5 Plaintiff,

6 vs.

7 KEVIN CULPERT and EFFICIENT DESIGN,
8 Defendants.

Case No. 13-000652 NI

THIRD JUDICIAL
CIRCUIT COURT
14 FEB 26 AM 8:32
COURT REPORTING
CIVIL DIVISION

9 _____ /
10 MOTION

11 BEFORE THE HONORABLE SUSAN D. BORMAN, Circuit Judge,
12 Detroit, Michigan on Friday, May 2, 2013.

13 APPEARANCES:

14
15 Pro Per Plaintiff: TAMARA FILAS
16 6477 Edgewood
17 Canton, MI 48187
(734) 751-0103

18 For the Defendant: MICHAEL C. O'MALLEY, P59108
19 (Efficient Design) 1450 W. Long Lake Road, Suite 150
20 Farmington Hills, MI 48334
(248) 851-4111

21 For the Defendant: AHMED HASSOUNA, P67995
22 (Kevin Culpert) 340 East Big Beaver, Suite 250
23 Troy, MI 48083
(248) 764-1127

24
25 COPY

TABLE OF CONTENTS

PAGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

WITNESS:

None

EXHIBITS:

None

IDENTIFIED

RECEIVED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Detroit Michigan
Thursday, May 2, 2013
Morning session - 10:04 a.m.

- - -

THE COURT: Good morning.
MS. FILAS: Good morning.
MR. SALISBURY: Good morning, Your Honor.

THE COURT: Good morning.

MR. HASSOUNA: Good morning, Your Honor.

MR. O'MALLEY: Michael O'Malley on behalf
of Defendant Efficient Design, Your Honor.

THE COURT: Okay, so first of all we have a
motion for substitution of attorney?

MR. SALISBURY: Yes.

THE COURT: Well, who's substituting in?
She's not an attorney.

MR. SALISBURY: She's not an attorney,
right. It's today to fill in for the Court's
purposes, I guess, until --

THE COURT: What do you mean fill in for
the Court?

MR. SALISBURY: Well, I've been dismissed.

THE COURT: Yeah.

MR. SALISBURY: So it's not a matter of
withdrawing. It's a matter of substitution.

1 THE COURT: Is that true, you've dismissed
2 this attorney?

3 MS. FILAS: Yes.

4 THE COURT: You're going to have a really
5 hard time finding anybody to represent you.

6 MS. FILAS: Well, I'm looking.

7 THE COURT: Okay, you can look, but --

8 MS. FILAS: I have someone in mind.

9 THE COURT: -- anybody who knows that you
10 fired three or four attorneys already is not going to
11 want to take your case.

12 MS. FILAS: It's only been two, and it was
13 for valid reasons.

14 THE COURT: This is the third. This is the
15 third.

16 MS. FILAS: No, this is the second.

17 MR. SALISBURY: Hopefully only the second.

18 MS. FILAS: Yeah, hopefully.

19 THE COURT: All right, so I'll grant your
20 motion since she doesn't want you to represent her,
21 but there's no substitution of attorney here. You're
22 just asking to be relieved from representing her.
23 I'll grant that motion, but it's not a substitution
24 of attorney because there's no attorney being
25 substituted.

1 Now, as far as the motion for continuance,
2 no. What we'll do is we'll do a status conference.
3 I'll give you a little extra time. It's my
4 understanding from reading your motion that you don't
5 want to give your deposition without an attorney, so
6 who's the one that's asking for her deposition?

7 MR. O'MALLEY: We both are, Your Honor.

8 THE COURT: Okay, so we'll put a stay on
9 the deposition for 30 days.

10 MR. O'MALLEY: Okay.

11 THE COURT: Okay, you'll have 30 days to
12 get yourself an attorney. If you don't, you're just
13 going to have to go to your deposition by yourself.

14 MS. FILAS: Okay.

15 THE COURT: I guess that's it, right?

16 MR. O'MALLEY: May we take up the motion to
17 compel, Your Honor?

18 THE COURT: Compel what?

19 MR. O'MALLEY: The answers to
20 interrogatories. I'm here today, Your Honor, asking
21 for the same relief that --

22 THE COURT: Okay, so we'll also go for 30
23 days on that or until she gets an attorney, until
24 somebody files an appearance whichever is sooner,
25 okay.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. HASSOUNA: What about this --

MR. O'MALLEY: That's fair, Your Honor.

THE COURT: Okay.

MR. HASSOUNA: What about the authorizations?

THE COURT: Same thing. She's not going to sign the authorizations. You're going to end up having this case dismissed too because, ma'am, you have to sign the authorizations. You can't bring a lawsuit putting your -- claiming damages for injuries of whatever kind without giving them authorizations to your medical records. If you're going to continue to not do that, or put restrictions on that that the law doesn't allow, your case will end up being dismissed just like your other case.

MS. FILAS: The only restriction that I put on it was that only the attorneys --

THE COURT: I don't want to hear about the restrictions. I already ruled on that. I said you couldn't do that so we're not going to revisit that, okay. We're not going to revisit that. But if you persist on doing that, this case is going to be dismissed too. There's going to come a point where if I've dismissed the case twice, it's going to be with prejudice, and then you're not going to be able to bring a lawsuit again, so this is something you

1 have to do. This is what the law requires. I
2 understand you don't want to do it, but in order to
3 bring such a lawsuit, you have to do it.

4 MS. FILAS: I just don't see where the law
5 requires to give it to a third party.

6 THE COURT: Okay, I don't care what you
7 see. I don't care what you see. We've gone over
8 this. It's not what you see.

9 MS. FILAS: But I'm being asked to give
10 records to a third party, not just the attorneys.
11 I'm being asked to give them to this deposition
12 service, and I just wanted to clarify that it was
13 just going to the one attorney.

14 THE COURT: It goes through Record Copy
15 Service. They don't care about your medical records,
16 but that's the way it's done, okay. That's the way
17 it's done. That way they know they get all your
18 records and that you're not keeping any back.

19 MS. FILAS: Right, I just wanted to make
20 sure it just went to that attorney though and it
21 didn't say Records Deposition who it was even being
22 disclosed to. Basically the way the form is written
23 it allowed them --

24 THE COURT: Only for this case. But when
25 you request your authorizations you can say it's for

1 the use in this case. It's not going to go to any
2 third party. But there are other people involved in
3 the case that will see your record. The insurance
4 company will see your record. The attorneys will see
5 your record. The defendants who are involved in this
6 case are going to see your records.

7 MS. FILAS: Right.

8 THE COURT: Yeah, yes.

9 MS. FILAS: I have no problem with that.

10 MR. O'MALLEY: Your Honor, may I make a
11 proposal regarding the outstanding discovery?

12 THE COURT: Yeah.

13 MR. O'MALLEY: With respect to the 30 days,
14 can we have a self-executing order that if we don't
15 receive the answers to the interrogatories sworn
16 under oath and the executed authorizations --

17 THE COURT: No.

18 MR. O'MALLEY: -- that the case is dismissed
19 without prejudice?

20 THE COURT: No. You'll bring a motion. No.
21 N-O. So I'm going to instruct my judicial attorney to
22 make out a scheduling order now. You don't even have
23 to come back. But you'll sit down and she's going to
24 give it to you. And instead of the usual 120 days
25 that we give, we'll be giving 150 days, okay.

1 And your motion -- you're going to have to
2 -- I don't know what your order says, but it's not a
3 substitution of attorney.

4 MR. SALISBURY: In pro per.

5 THE COURT: I don't see your order. I
6 don't see your order.

7 MR. SALISBURY: There's a proposed order.

8 THE COURT: Well, you're going to have to
9 make it the way I ruled. So everything is going to
10 be like in a stay for 30 days.

11 MS. FILAS: Would that include the motion
12 that's scheduled for next week on Friday?

13 THE COURT: What motion is scheduled for
14 next week?

15 MS. FILAS: Efficient Design's motion to
16 compel discovery also.

17 MR. O'MALLEY: Co-defense counsel, there's
18 two of us representing Efficient Design's under two
19 different policies. I'll let him know that that's
20 put off.

21 THE COURT: Okay, so this is a third party
22 case, right?

23 MR. SALISBURY: Yes, Your Honor.

24 MR. O'MALLEY: Yes, Your Honor.

25 THE COURT: Okay, I don't see your order

1 here.

2 MR. O'MALLEY: It was part of the packet.

3 THE COURT: I don't have it. Do you have a
4 copy of it?

5 MR. O'MALLEY: I only had one copy.

6 THE COURT: You only had one copy? How are
7 you going to get a true copy then?

8 MR. O'MALLEY: It's an e-file case.

9 THE COURT: It's not an e-file case or are
10 we e-filing these now?

11 THE CLERK: Yes.

12 THE COURT: Okay, fill out a blank order
13 and then I'll initial it and then you'll have to
14 e-file it.

15 MR. O'MALLEY: Your Honor, shall I
16 re-notice the motion to compel after 30 days?

17 THE COURT: How else are you going to get
18 it before me.

19 MR. O'MALLEY: Okay.

20 THE COURT: I told you it wasn't going to
21 be self-executing, so I don't know of any other way
22 except by bringing a motion.

23 MR. O'MALLEY: I will re-notice it for the
24 next available motion after 30 days.

25 THE COURT: Any Friday is available. Any

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Friday is available unless I'm not going to be here.

Okay, you can get a blank order from Precious.

MR. O'MALLEY: I just gave him one, Your Honor. Thank you very much for your time.

MS. FILAS: Thank you.

THE COURT: You're welcome.


(Proceeding concluded - 10:14 a.m.)

1
 2
 3
 4
 5
 6
 7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

C E R T I F I C A T E

STATE OF MICHIGAN)
) .ss
 COUNTY OF WAYNE)

I do certify that this transcript
 consisting of these pages are a complete, true, and correct
 transcript of the proceeding taken in this case in the County
 of Wayne, State of Michigan on Friday, May 2, 2013.



 Marge Bamonte, R-5518
 Official Court Reporter
 CAYMC Building, Room 1111
 Detroit, MI 48226
 (313) 224-5243

Exhibit I

6477 Edgewood
Canton, MI 48187
June 6, 2013

Henry Ford West Bloomfield Hospital
Attn: Medical Records
6777 West Maple Rd.
West Bloomfield, MI 48322

RE: Request for records pertaining to Tamara Filas, DOB [REDACTED]

Dear Medical Records Custodian,

Attached is a signed Authorization for Release of Medical Information and Authentication Certificate, permitting the disclosure of records pertaining to Tamara Filas, DOB [REDACTED], as described in detail below, to Mr. Ahmed Hassouna, Law Offices of Mark E. Williams, 340 E. Big Beaver Suite 250, Troy, MI 48083.

It is necessary that the attached Certificate, to be completed by the Records Custodian, is notarized, and sent by U.S. Certified Mail with Return Receipt, in order to satisfy MCR 2.506(I)(1)(b).

Description of records requested:

Redacted: Below was DOB
Any and all PHI from [REDACTED] until present.

Redacted: Below was DOB
Any and all medical records from [REDACTED] to present pertaining to Tamara Filas DOB [REDACTED], including all medical reports, doctor notes/reports, nurse's notes/reports, consultation notes/reports, admission notes, treatment notes/history, radiographic study reports, medical orders, physical therapy notes/orders/regimen, performance appraisals, exam results, discharge summaries and the like, including, but not limited to the following practitioner visits:

- Redacted: Additional letters of caregivers' names and type of report
- 4-7-10, K [REDACTED] S [REDACTED]
 - 5-5-10, J [REDACTED] L [REDACTED] and C [REDACTED] E [REDACTED]
 - 8-31-10, C [REDACTED] I [REDACTED]
 - 9-16-10, V [REDACTED] S [REDACTED]
 - 11-2-10, C [REDACTED] E [REDACTED]
 - 4-14-11, N [REDACTED] C [REDACTED]
 - 9-12-11, C [REDACTED] E [REDACTED] and J [REDACTED] M [REDACTED]
 - 10-3-11, [REDACTED] testing reports
 - 10-5-11, C [REDACTED] E [REDACTED]
 - 12-13-11, C [REDACTED] L [REDACTED]
 - 2-17-12, C [REDACTED] L [REDACTED]
 - 3-8-12, J [REDACTED] N [REDACTED]
 - 4-4-12, J [REDACTED] N [REDACTED]

4-9-12, J [redacted] N [redacted]
4-16-12, J [redacted] N [redacted]
4-19-12, J [redacted] N [redacted]
7-13-12, C [redacted] U [redacted]
10-5-12, C [redacted] U [redacted]

Thank you in advance for your assistance.

Yours truly,

signature redacted

Tamara Filas

This 2-page document and 2-page Medical Authorization form, requesting records pertaining to Tamara Filas, was received on June 6, 2013 by:

Debra K
Signature

Debra Kress
Printed name

12:25 pm
Time

Approved, SCAO

Original - Records custodian
1st copy - Requesting party
2nd copy - Patient

STATE OF MICHIGAN JUDICIAL DISTRICT 3rd JUDICIAL CIRCUIT COUNTY PROBATE	AUTHORIZATION FOR RELEASE OF MEDICAL INFORMATION	CASE NO. 13-000652-NI
---	--	---------------------------------

Court address: 2 Woodward Ave. Detroit, MI 48226
 Court telephone no.: (313) 224-5261

Plaintiff Tamara Filas	v	Defendant Kevin Culpert and Efficient Design, Inc.
-------------------------------	---	---

Probate In the matter of _____

1. Tamara Filas [REDACTED]
 Patient's name Date of birth

2. I authorize Henry Ford West Bloomfield Hospital, Attn: Medical Records, 6777 W. Maple Rd., West Bloomfield, MI 48322
 Name and address of doctor, hospital, or other custodian of medical information

to release (see attached letter)
 Description of medical information to be released (include dates where appropriate)

to Mr. Ahmed Hassouna, Law Offices of Mark E. Williams, 340 E. Big Beaver Suite 250, Troy, MI 48083
 Name and address of party to whom the information is to be given

3. I understand that unless I expressly direct otherwise:

- a) the custodian will make the medical information reasonably available for inspection and copying, or
- b) the custodian will deliver to the requesting party the original information or a true and exact copy of the original information accompanied by the certificate on the reverse side of this authorization.

I understand that medical information may include records, if any, on alcohol and drug abuse, psychology, social work, and information about HIV, AIDS, ARC, and any other communicable disease.

4. This authorization is valid for 60 days and is signed to make medical information regarding me available to the other party(ies) to the lawsuit listed above for their use in any stage of the lawsuit. The medical information covered by this release is relevant because my mental or physical condition is in controversy in the lawsuit.

5. I understand that by signing this authorization there is potential for protected health information to be redisclosed by the recipient.

6. I understand that I may revoke this authorization, except to the extent action has already been taken in reliance upon this authorization, at any time by sending a written revocation to the doctor, hospital, or other custodian of medical information.

06/06/2013

Date

signature redacted

Signature

Tamara Filas

Name (type or print) (If signing as Personal Representative, please state under what authority you are acting)

6477 Edgewood

Address

Canton, MI 48187

City, state, zip

(734) 751-0103

Telephone no.

CERTIFICATE

1. I am the custodian of medical information for _____
Organization
2. I received the attached authorization for release of medical information on _____
Date
3. I have examined the original medical information regarding this patient and have attached a true and complete copy of the information that was described in the authorization.
4. This certificate is made in accordance with Michigan Court Rule.

I declare that the statements above are true to the best of my information, knowledge, and belief.

Date

Signature

Name (type or print)

Address

City, state, zip

Telephone no.

6477 Edgewood
Canton, MI 48187
June 19, 2013

Redacted: Name of business, to protect privacy

██████████ Chiropractic
Attn: Records Custodian
██████████
██████████, MI ██████████

RE: Request for records pertaining to Tamara Filas, DOB ██████████

Dear Health Information Management Representative,

Attached is a signed Authorization for Release of Medical Information and Authentication Certificate, permitting the disclosure of records pertaining to Tamara Filas, DOB ██████████, as described in detail below, to Mr. Ahmed Hassouna, Law Offices of Mark E. Williams, 340 E. Big Beaver Suite 250, Troy, MI 48083.

It is necessary that the attached Certificate, to be completed by the Records Custodian, is notarized, and sent by U.S. Certified Mail with Return Receipt, in order to satisfy MCR 2.506(l)(1)(b).

Description of records requested:

Redacted: Below was DOB

Any and all medical records from ██████████ to present pertaining to Tamara Filas, DOB ██████████, including all medical reports, history & physical, discharge summary, operative reports, consults, outpatient visit notes, test reports, ER clinician notes, flow sheets, medication administration records, physician orders, doctor notes/reports, nurse's notes/reports, consultation notes/reports, admission notes, treatment notes/history, radiographic study reports, medical orders, physical therapy notes/orders/regimen, performance appraisals, exam results, discharge summaries and the like, including, but not limited to the following visit dates:

4-29-11	2-16-12	3-10-12
5-3-11	2-18-12	3-13-12
2-1-12	2-21-12	3-15-12
2-3-12	2-23-12	3-17-12
2-4-12	2-25-12	3-21-12
2-7-12	2-28-12	3-24-12
2-9-12	3-1-12	3-31-12
2-10-12	3-3-12	4-3-12
2-11-12	3-6-12	4-16-12
2-14-12	3-8-12	4-20-12

4-25-12	8-13-12	1-30-13
4-28-12	8-29-12	2-4-13
5-1-12	9-17-12	2-11-13
5-5-12	9-24-12	2-18-13
5-8-12	10-1-12	2-25-13
5-11-12	10-8-12	3-4-13
5-15-12	10-15-12	3-11-13
5-18-12	10-22-12	3-25-13
5-22-12	11-5-12	4-8-13
6-7-12	11-12-12	4-15-13
6-13-12	11-19-12	4-22-13
6-19-12	11-26-12	5-6-13
6-26-13	12-3-12	5-13-13
7-9-12	12-10-12	5-20-13
7-16-12	12-19-12	6-3-13
7-23-12	1-7-13	6-10-13
7-30-12	1-14-13	
8-6-12	1-23-13	

Other records requested:

Any and all films, x-rays, CT's, MRI's, and EMG's from [REDACTED] to present pertaining to Tamara Filas (DOB [REDACTED]). Please provide films on CD, if possible.

Redacted: Below was DOB

Billing information from 1-15-2010 to present

Thank you in advance for your assistance.

Yours truly,

signature redacted

Tamara Filas

Original - Records custodian
1st copy - Requesting party
2nd copy - Patient

Approved, SCAO

STATE OF MICHIGAN JUDICIAL DISTRICT 3rd JUDICIAL CIRCUIT COUNTY PROBATE	AUTHORIZATION FOR RELEASE OF MEDICAL INFORMATION	CASE NO. 13-000652-NI
--	---	--------------------------

Court address: 2 Woodward Ave., Detroit, MI 48226
 Court telephone no.: (313) 224-5261

Plaintiff Tamara Filas	v	Defendant Kevin Culpert and Efficient Design, Inc.
---------------------------	---	---

Probate In the matter of _____

1. Tamara Filas _____
 Patient's name Date of birth

2. I authorize _____ Attn: Records Custodian, _____ MI _____
 Name and address of doctor, hospital, or other custodian of medical information

to release (see attached letter)
 Description of medical information to be released (include dates where appropriate)

to Mr. Ahmed Hassouna, Law Offices of Mark E. Williams, 340 E. Big Beaver, Suite 250, Troy, MI 48083
 Name and address of party to whom the information is to be given

3. I understand that unless I expressly direct otherwise:
- a) the custodian will make the medical information reasonably available for inspection and copying, or
 - b) the custodian will deliver to the requesting party the original information or a true and exact copy of the original information accompanied by the certificate on the reverse side of this authorization.
- I understand that medical information may include records, if any, on alcohol and drug abuse, psychology, social work, and information about HIV, AIDS, ARC, and any other communicable disease.
4. This authorization is valid for 60 days and is signed to make medical information regarding me available to the other party(ies) to the lawsuit listed above for their use in any stage of the lawsuit. The medical information covered by this release is relevant because my mental or physical condition is in controversy in the lawsuit.
5. I understand that by signing this authorization there is potential for protected health information to be redisclosed by the recipient.
6. I understand that I may revoke this authorization, except to the extent action has already been taken in reliance upon this authorization, at any time by sending a written revocation to the doctor, hospital, or other custodian of medical information.

6-19-13
 Date

signature redacted
 Signature
 Tamara Filas

6477 Edgewood
 Address
 Canton, MI 48187

(734) 751-0103
 Telephone no.

Name (type or print) (If signing as Personal Representative, please state under what authority you are acting)
 City, state, zip



Certificate Of Mailing

From



Ms. Tamara Filas
6477 Edgewood Rd.
Canton, MI 48187-5264

To



Attn: Records Custodian



, MI

1000



00087954-03

\$1.20

U. S. POSTAGE
PAID
CANTON, MI
JUN 19, 13
HMOUNT

Exhibit J1

6477 Edgewood
Canton, MI 48187
October 27, 2014

St. Joseph Mercy Michigan Orthopedic Center
Attn: Records Custodian
5315 Elliot Dr., Suite 301
Ypsilanti, MI 48197

**RE: Medical Records Releases for Tamara Filas, DOB [redacted]
Disclosure Information Request**

Dear Health Information Management Representative,

In June 2013, your office should have received two separate completed copies of form MC315 signed and dated by me to release my medical records to Mr. James Wright (Item 1 below) and Mr. Ahmed Hassouna (Item 2 below). There was also a medical records request (Form MC 315) signed by me to have the same records that were released to Mr. Hassouna to be sent to me.

R E D A C T E D

I am requesting the disclosure of the following information regarding the release of my records to any of the entities listed above in items 1-3, or anyone else to whom my records may have been released (see item 4 below).

For your convenience, I have provided a simple form for you to fill out. Please answer all questions that are discloseable. If a question cannot be answered, give a brief explanation why.

Please answer the questions presented below in items #1-4, sign and date at the bottom, and return the completed copy to me at 6477 Edgewood, Canton, MI 48187.

Thank you,

[signature redacted]

Tamara Filas

*Forms Completed
& Returned to
patient
10/29/14.*

Item 1:

Mr. James Wright
Zausmer, Kaufman, August & Caldwell, P.C.
31700 Middlebelt Rd., Suite 150
Farmington Hills, MI 48334

- 1) Were all of the records that I, Tamara Filas, requested to be sent to Mr. Wright or anyone else at the address above, copied and sent out? yes no.
- 2) Were only some of the records that I, Tamara Filas, requested to be sent to Mr. Wright or anyone else at the above address copied and sent out?

yes no. If yes, explain why only some were sent.

All sent. Records, xray disk + Billing stmt
mailed on ~~7-24-14~~ 7-24-13
ERRATA
SMS

- 3) If yes to #1 or #2, was a fee paid to you for the copying and mailing of the records to Mr. Wright or anyone else at the address above? yes no.

If the answer is no, skip to number 5. If answer is yes, proceed to question 4.

- 4) Was the fee paid before or after the records were copied and sent out?

before after

- 5) On what date were the records sent: ~~7-24-14~~ 7-24-13

- 6) If no records requested were sent, what is the reason records were not sent?

Judge Manders, medical records Dept.
10/29/14 Suite 301

Item 2:

Mr. Ahmed Hassouna
Law Offices of Mark E. Williams
340 E. Big Beaver Suite 250
Troy, MI 48083

- 1) Were all of the records that I, Tamara Filas, requested to be sent to Mr. Hassouna or anyone else at the address above, copied and sent out?
 yes ___ no.
- 2) Were only some of the records that I, Tamara Filas, requested to be sent to Mr. Hassouna or anyone else at the above address copied and sent out?
___ yes no. If yes, explain why only some were sent.
All Records sent, xray disk + Billing stmt
mailed on 7-15-13.

- 3) Was I, Tamara Filas, sent the same exact copies of the records that were sent to Mr. Hassouna or anyone else at the above address? yes ___ no.
- 4) If yes to #1 or #2, was a fee paid to you for the copying and mailing of the records to Mr. Hassouna or anyone else at the address above? yes ___ no.

If the answer is no, skip to number 6. If answer is yes, proceed to question 5.

- 5) Was the fee paid before or after the records were copied and sent out?
 before ___ after
- 6) On what date were the records sent: 7-15-13
- 7) If no records requested were sent, what is the reason records were not sent?

Judy Manders Medical Records Dept.
10-29-14 Suite 301

Item 4:

Any other person or entity to whom records were sent at any time with or without a signed request from Tamara Filas. This would include records released to insurance companies who requested billing codes, records exchanged between health care providers, records released via a court-ordered subpoena or records provided to an employer or governmental agency by statute or law:

Please give name of each person or entity to whom the records were released, the date they were released, and a brief description of the records released.

<u>Person/entity</u>	<u>Date released</u>	<u>Brief Description of records released</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Attach additional sheets as necessary.

Signature of medical records representative completing this form:

Judy Manders

Printed name:

Judy Manders

Andrew Moore M.D.
ORTHOPEDIC SURGERY ASSOCIATES, P.C.
5315 ELLIOTT DRIVE
SUITE 301
TUSCUMMA, MICHIGAN 48197

Date:

10-29-14

Exhibit J2



**ST. MARY MERCY
LIVONIA**
SAINT JOSEPH MERCY HEALTH SYSTEM

36475 Five Mile Road
Livonia, MI 48154
Phone: 734-655-4800

stmarymercy.org

October 31, 2014

Ms. Tamara Filas
6477 Edgewood
Canton, MI 48187

Re: Accounting of disclosures

Ms. Filas,

Attached is the information that you requested regarding releases of your records. This is the standard information that is given with these types of requests as such I am under no obligation to fill out the forms that you requested.

Please contact me if you need further information.

Thank you.

Denise Blackburn, RHIA
Director, Medical Records
(734) 655-1409

5 Record(s) Found

Advanced Search Details

21080 - ST MARY MERCY
HOSPITAL LIVONIA

Log ID	Req ID Requester Notification Num	Location	Patient Name	Requester Name	Scan Date	Request Received Date/Time	Comments	Date Entered
83013577	130251041	21080-St Mary Mercy Hospital Livonia	Tamara Filas	Tamara Filas	07/03/2013	06/24/2013	Any And All Med. Recs. From Dob-present. Billing And Imaging Requests Interofficd)- jm (waiting For Physical Therapy Recs.)-jm. 6/26/13, phy. therapy recs. rcvd-jm.	06/24/2013
83013822	130250651	21080-St Mary Mercy Hospital Livonia	Tamara Filas	Law Offices Of Mark E Williams Attn Mr Ahmed Hassouna	07/03/2013	06/24/2013	Any And All Med. Recs. From Dob-present. (billing And Imaging Requests Interofficd)- jm. (waiting For Physical Therapy Recs.)-jm. 6/26/13, phy. recs. rcvd-jm.	06/24/2013
83166521	130250250	21080-St Mary Mercy Hospital Livonia	Tamara Filas	Mr James Wright Zausmer Kaufman August And Caldwell P C	07/03/2013	06/24/2013	All Med Recs. From Dob-present. (billing And Imaging Requests Interofficd 6/24/13). (waiting For Physical Therapy Recs)-jm. 6/26/13, phy recs. rcvd-also, this is a revised request with a different address for the recipient, forwarded new copies to radiology and billing-jm.	06/26/2013
81058253	127460929	21080-St Mary Mercy Hospital Livonia	Tamara Filas	Tamara Filas	05/13/2013	05/13/2013	Physical Therapy Recs From 02/2013.	05/13/2013
74550412	119966524	21080-St Mary Mercy Hospital Livonia	Tamara Filas	Tamara Filas	12/19/2012	12/19/2012	All Physical Therapy Recs. From Aug-dec 2012.	12/19/2012

eSmartlog Request Details

21080 : St Mary Mercy Hospital Livonia

Log ID: 83013822 Associate#: 123032

Location: 21080: St Mary Mercy Hospital Livonia

Requester Information

Phone: 734-751-0103 Name: Law Offices Of Mark E Williams Attn Mr Ahmed Hassouna

Type: Patient

Address: 340 E Big Beaver Suite 250

City: Troy

State-Zip: MI -48083

Patient Information

Received Date: 06/24/2013

First Name: Tamara

Last Name: Filas

DOB: redacted

SSN:

Med Rec No: 953109

Claim #:

Chart Location: Perm File

Date of Service:

Patient Acct #:

Complete Date: 07/03/2013

Enter Date: 06/24/2013 @ 11:39:10:am

Page Count: 88

HIPAA reportable disclosure:

Delivery Method: Mail

Attention of :

Forms Sent: ANY AND ALL RECORDS

Comments:

Any And All Med. Recs. From Dob-present. (billing And Imaging Requests Interofficd)-jm. (waiting For Physical Therapy Recs.)-jm. 6/26/13, phy. recs. rvd-jm.

Entered by: 123032-Jeri Mckenzie-Associate

Pushed from AudaPro: N/A

Request Reason: Patient Transfer

Billable Type: Y

Pay On Site: N

Page Count Known: N

Paper Pages: 0

Micro Pages: 0

Electronic Pages: 0

Email:

Update Record

Close This Window

View Request Letter

Correspondence History

New Correspondence Letters

eSmartlog Request Details

21080 : St Mary Mercy Hospital Livonia

Log ID: 83166521

Associate#: 123032

Location: 21080: St Mary Mercy Hospital Livonia

Requester Information

Phone: 734-751-0103 **Name:** Mr James Wright Zausmer Kaufman August And Caldwell P C

Type: Patient

Address: 31700 Middlebelt Rd Suite 150 **City:** Farmington Hills

State-Zip: MI -48334

Patient Information

Received Date: 06/24/2013

First Name: Tamara

Last Name: Filas

DOB: redacted

SSN:

Med Rec No: 953109

Claim #:

Chart Location: Perm File

Date of Service:

Patient Acct #:

Complete Date: 07/03/2013

Enter Date: 06/26/2013 @ 02:31:42:pm

Page Count: 88

HIPAA reportable disclosure:

Delivery Method: Mail

Attention of :

Forms Sent: ANY AND ALL RECORDS

Comments:

All Med Recs. From Dob-present. (billing And Imaging Requests Interofficed 6/24/13). (waiting For Physical Therapy Recs)-jm. 6/26/13, phy recs. rcvd-also, this is a revised request with a different address for the recipient, forwarded new copies to radiology and billing-jm.

Entered by: 123032-Jeri Mckenzie-Associate

Pushed from AudaPro: N/A

Request Reason: Patient Transfer

Billable Type: Y

Pay On Site: N

Page Count Known: N

Paper Pages: 0

Micro Pages: 0

Electronic Pages: 0

Email:

Update Record

Close This Window

Exhibit J3

6477 Edgewood
Canton, MI 48187
October 27, 2014

Dr. James Giordano, DDS
Attn: Records Custodian
6150 Greenfield Rd. #200
Dearborn, MI 48126

**RE: Medical Records Releases for Tamara Filas, DOB [redacted]
Disclosure Information Request**

Dear Health Information Management Representative,

In June 2013, your office should have received two separate completed copies of form MC315 signed and dated by me to release my medical records to Mr. James Wright (Item 1 below) and Mr. Ahmed Hassouna (Item 2 below). There was also a medical records request (Form MC 315) signed by me to have the same records that were released to Mr. Hassouna to be sent to me.

R E D A C T E D

I am requesting the disclosure of the following information regarding the release of my records to any of the entities listed above in items 1-3, or anyone else to whom my records may have been released (see item 4 below).

For your convenience, I have provided a simple form for you to fill out. Please answer all questions that are discloseable. If a question cannot be answered, give a brief explanation why.

Please answer the questions presented below in items #1-4, sign and date at the bottom, and return the completed copy to me at 6477 Edgewood, Canton, MI 48187.

Thank you,

[signature redacted]

Tamara Filas

Item 1:

Mr. James Wright
Zausmer, Kaufman, August & Caldwell, P.C.
31700 Middlebelt Rd., Suite 150
Farmington Hills, MI 48334

- 1) Were all of the records that I, Tamara Filas, requested to be sent to Mr. Wright or anyone else at the address above, copied and sent out? yes ___ no.
- 2) Were only some of the records that I, Tamara Filas, requested to be sent to Mr. Wright or anyone else at the above address copied and sent out?

yes ___ no. If yes, explain why only some were sent.

- 3) If yes to #1 or #2, was a fee paid to you for the copying and mailing of the records to Mr. Wright or anyone else at the address above? ___ yes ___ no.

If the answer is no, skip to number 5. If answer is yes, proceed to question 4.

- 4) Was the fee paid before or after the records were copied and sent out?

___ before after *\$50.09 still remains owing, record copy was \$150.00, \$100.00 was paid only ck #5784*

- 5) On what date were the records sent: 6-27-13

- 6) If no records requested were sent, what is the reason records were not sent?

Item 2:

Mr. Ahmed Hassouna
Law Offices of Mark E. Williams
340 E. Big Beaver Suite 250
Troy, MI 48083

- 1) Were all of the records that I, Tamara Filas, requested to be sent to Mr. Hassouna or anyone else at the address above, copied and sent out?
 yes no.
- 2) Were only some of the records that I, Tamara Filas, requested to be sent to Mr. Hassouna or anyone else at the above address copied and sent out?
 yes no. If yes, explain why only some were sent.

- 3) Was I, Tamara Filas, sent the same exact copies of the records that were sent to Mr. Hassouna or anyone else at the above address? yes no.
- 4) If yes to #1 or #2, was a fee paid to you for the copying and mailing of the records to Mr. Hassouna or anyone else at the address above? yes no.

If the answer is no, skip to number 6. If answer is yes, proceed to question 5.

- 5) Was the fee paid before or after the records were copied and sent out?
 before after
- 6) On what date were the records sent: 6.27.13
- 7) If no records requested were sent, what is the reason records were not sent?

Item 4:

Any other person or entity to whom records were sent at any time with or without a signed request from Tamara Filas. This would include records released to insurance companies who requested billing codes, records exchanged between health care providers, records released via a court-ordered subpoena or records provided to an employer or governmental agency by statute or law:

Please give name of each person or entity to whom the records were released, the date they were released, and a brief description of the records released.

Person/entity Date released Brief Description of records released

R E D A C T E D

Attach additional sheets as necessary.

Signature of medical records representative completing this form:

Carole Bartlett

Printed name:

CAROLE BARTLETT

Date:

10-28-14

Exhibit J4

6477 Edgewood
Canton, MI 48187
October 27, 2014

Manzo Eye Care
Attn: Records Custodian
621 W. 11 Mile Rd.
Royal Oak, MI 48067

**RE: Medical Records Releases for Tamara Filas, DOB [redacted]
Disclosure Information Request**

Dear Health Information Management Representative,

In June 2013, your office should have received two separate completed copies of form MC315 signed and dated by me to release my medical records to Mr. James Wright (Item 1 below) and Mr. Ahmed Hassouna (Item 2 below). There was also a medical records request (Form MC 315) signed by me to have the same records that were released to Mr. Hassouna to be sent to me.

R E D A C T E D

I am requesting the disclosure of the following information regarding the release of my records to any of the entities listed above in items 1-3, or anyone else to whom my records may have been released (see item 4 below).

For your convenience, I have provided a simple form for you to fill out. Please answer all questions that are discloseable. If a question cannot be answered, give a brief explanation why.

Please answer the questions presented below in items #1-4, sign and date at the bottom, and return the completed copy to me at 6477 Edgewood, Canton, MI 48187.

Thank you,

[signature redacted]

Tamara Filas

Item 1:

Mr. James Wright
Zausmer, Kaufman, August & Caldwell, P.C.
31700 Middlebelt Rd., Suite 150
Farmington Hills, MI 48334

- 1) Were all of the records that I, Tamara Filas, requested to be sent to Mr. Wright or anyone else at the address above, copied and sent out? yes ___ no.
- 2) Were only some of the records that I, Tamara Filas, requested to be sent to Mr. Wright or anyone else at the above address copied and sent out?
___ yes no. If yes, explain why only some were sent.

- 3) If yes to #1 or #2, was a fee paid to you for the copying and mailing of the records to Mr. Wright or anyone else at the address above? yes ___ no.

If the answer is no, skip to number 5. If answer is yes, proceed to question 4.

- 4) Was the fee paid before or after the records were copied and sent out?
 before ___ after

5) On what date were the records sent: 6/25/13

- 6) If no records requested were sent, what is the reason records were not sent?

Item 2:

Mr. Ahmed Hassouna
Law Offices of Mark E. Williams
340 E. Big Beaver Suite 250
Troy, MI 48083

- 1) Were all of the records that I, Tamara Filas, requested to be sent to Mr. Hassouna or anyone else at the address above, copied and sent out?
 yes no.
- 2) Were only some of the records that I, Tamara Filas, requested to be sent to Mr. Hassouna or anyone else at the above address copied and sent out?
 yes no. If yes, explain why only some were sent.

- 3) Was I, Tamara Filas, sent the same exact copies of the records that were sent to Mr. Hassouna or anyone else at the above address? yes no.
- 4) If yes to #1 or #2, was a fee paid to you for the copying and mailing of the records to Mr. Hassouna or anyone else at the address above? yes no.

If the answer is no, skip to number 6. If answer is yes, proceed to question 5.

- 5) Was the fee paid before or after the records were copied and sent out?
 before after

6) On what date were the records sent: 6/25/13

- 7) If no records requested were sent, what is the reason records were not sent?

N/A

Item 4:

Any other person or entity to whom records were sent at any time with or without a signed request from Tamara Filas. This would include records released to insurance companies who requested billing codes, records exchanged between health care providers, records released via a court-ordered subpoena or records provided to an employer or governmental agency by statute or law:

Please give name of each person or entity to whom the records were released, the date they were released, and a brief description of the records released.

<u>Person/entity</u>	<u>Date released</u>	<u>Brief Description of records released</u>
_____	_____	N/A
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Attach additional sheets as necessary.

Signature of medical records representative completing this form:

 _____

Printed name:

Natalie Kempert _____

Date:

11/3/14 _____

Exhibit J5

343120

6477 Edgewood
Canton, MI 48187
October 27, 2014

Associates in Physical Medicine & Rehabilitation
Attn: Records Custodian
Reichert Health Center
5333 McAuley Dr., Suite 2009
Ypsilanti, MI 48197

**RE: Medical Records Releases for Tamara Filas, DOB [redacted]
Disclosure Information Request**

Dear Health Information Management Representative,

In June 2013, your office should have received two separate completed copies of form MC315 signed and dated by me to release my medical records to Mr. James Wright (Item 1 below) and Mr. Ahmed Hassouna (Item 2 below). There was also a medical records request (Form MC 315) signed by me to have the same records that were released to Mr. Hassouna to be sent to me.

R E D A C T E D

I am requesting the disclosure of the following information regarding the release of my records to any of the entities listed above in items 1-3, or anyone else to whom my records may have been released (see item 4 below).

For your convenience, I have provided a simple form for you to fill out. Please answer all questions that are discloseable. If a question cannot be answered, give a brief explanation why.

Please answer the questions presented below in items #1-4, sign and date at the bottom, and return the completed copy to me at 6477 Edgewood, Canton, MI 48187.

Thank you,

[redacted]
signature redacted

Tamara Filas

*See attached package
that was sent to Mr.
James Wright.*

Item 1:

Mr. James Wright
Zausmer, Kaufman, August & Caldwell, P.C.
31700 Middlebelt Rd., Suite 150
Farmington Hills, MI 48334

- 1) Were all of the records that I, Tamara Filas, requested to be sent to Mr. Wright or anyone else at the address above, copied and sent out? yes no.
- 2) Were only some of the records that I, Tamara Filas, requested to be sent to Mr. Wright or anyone else at the above address copied and sent out?

yes no. If yes, explain why only some were sent.

- 3) If yes to #1 or #2, was a fee paid to you for the copying and mailing of the records to Mr. Wright or anyone else at the address above? yes no.

If the answer is no, skip to number 5. If answer is yes, proceed to question 4.

- 4) Was the fee paid before or after the records were copied and sent out?

before after

- 5) On what date were the records sent: 06/28/2013

- 6) If no records requested were sent, what is the reason records were not sent?

→ *Fee may have been paid to HealthPod who processed your record request HealthPod may be reached at 800-367-1500 to verify if they received payment.*

*See attached package
that was sent to
Mr. Ahmed Hassouna.*

Item 2:

Mr. Ahmed Hassouna
Law Offices of Mark E. Williams
340 E. Big Beaver Suite 250
Troy, MI 48083

- 1) Were all of the records that I, Tamara Filas, requested to be sent to Mr. Hassouna or anyone else at the address above, copied and sent out?
 yes ___ no.
- 2) Were only some of the records that I, Tamara Filas, requested to be sent to Mr. Hassouna or anyone else at the above address copied and sent out?
___ yes ___ no. If yes, explain why only some were sent.

- 3) Was I, Tamara Filas, sent the same exact copies of the records that were sent to Mr. Hassouna or anyone else at the above address? yes ___ no.
- 4) If yes to #1 or #2, was a fee paid to you for the copying and mailing of the records to Mr. Hassouna or anyone else at the address above? ___ yes no.

If the answer is no, skip to number 6. If answer is yes, proceed to question 5.

- 5) Was the fee paid before or after the records were copied and sent out?
___ before ___ after

6) On what date were the records sent: 06/28/2013

- 7) If no records requested were sent, what is the reason records were not sent?

Fee may have been paid to HealthPort who processed your record request. HealthPort may be reached at 877-367-1500 to verify if they received payment.

Exhibit K

REGISTER OF ACTIONS

CASE No. 13-000652-NI

RELATED CASE INFORMATION**Related Cases**

11-014149-NF (Prior Action)

PARTY INFORMATION

Defendant	CULPERT, KEVIN THOMAS	Lead Attorneys Ahmed M. Hassouna <i>Retained</i> (248) 764-1127(W)
Defendant	EFFICIENT DESIGN, INC.	James C. Wright <i>Retained</i> (248) 851-4111(W)
Plaintiff	Filas, Tamara	Pro Se
Plaintiff	FILAS, TAMARA	Daryle G. Salisbury <i>Retained</i> (248) 348-6820(W)

EVENTS & ORDERS OF THE COURT**OTHER EVENTS AND HEARINGS**

01/14/2013	Service Review Scheduled (Due Date: 04/15/2013) (Clerk: Tyler,F)
01/14/2013	Status Conference Scheduled (Clerk: Tyler,F)
01/14/2013	Case Filing Fee - Paid \$150.00 Fee Paid (Clerk: Tyler,F)
01/14/2013	Complaint, Filed (Clerk: Bynum,D)
02/06/2013	Answer to Complaint-with Jury Demand, Filed Proof of Service, Filed; Affirmative Defenses, Filed (Clerk: Tyler,F)
02/06/2013	Proof of Service, Filed (Clerk: Tyler,F)
02/07/2013	Request for Admissions, Filed (Clerk: Tyler,F)
02/12/2013	Appearance of Attorney, Filed (Clerk: Tyler,F)
02/19/2013	Service of Complaint, filed (Clerk: Tyler,F)
02/19/2013	Answer to Affirmative Defenses, Filed (Clerk: Tyler,F)
02/20/2013	Answer to Complaint-with Jury Demand, Filed Proof of Service, Filed; Affirmative Defenses, Filed (Clerk: Tyler,F)
02/20/2013	Witness List, Filed Proof of Service, Filed (Clerk: Tyler,F)
02/25/2013	Affirmative Defenses, Filed (Clerk: Tyler,F)
03/11/2013	Appearance of Attorney, Filed (Clerk: Tyler,F)
03/26/2013	Motion to Extend Time, Filed Fee: \$20.00 Paid; Brief, Filed; Proof of Service, Filed; Notice of Hearing, Filed (Clerk: Tyler,F)
04/03/2013	Notice of Hearing, Filed (Clerk: Tyler,F)
04/04/2013	Præcipe, Filed (Judicial Officer: Borman, Susan D.)
04/19/2013	Notice of Hearing, Filed (Clerk: Tyler,F)
04/19/2013	Motion to Compel Answers to Interrogatories, Filed Fee: \$20.00 Paid; Brief, Filed; Proof of Service, Filed; Notice of Hearing, Filed (Clerk: Tyler,F)
04/22/2013	Motion to Consolidate, Filed Fee: \$20.00 Paid; Brief, Filed; Proof of Service, Filed; Notice of Hearing, Filed (Clerk: Tyler,F)
04/24/2013	Præcipe, Filed (Judicial Officer: Borman, Susan D.)
04/24/2013	Notice of Hearing, Filed (Clerk: Tyler,F)

04/26/2013 **CANCELLED Motion Hearing (9:00 AM)** (Judicial Officer: Borman, Susan D.)
<https://cmspublic.3rdcc.org/CaseDetail.aspx?CaseID=2300181>

CANCELED Motion Hearing (9:30 AM) (Judicial Officer Borman, Susan D.)
 Scheduling Error
 Scheduling Error
 04/12/2013 Reset by Court to 04/26/2013
 04/29/2013 **Miscellaneous Motion, Filed**
 Fee: \$20.00 Paid; Brief, Filed; Proof of Service, Filed; Notice of Hearing, Filed (Clerk: Tyler,F)
 04/30/2013 **Motion to Compel Action, Filed**
 Fee: \$20.00 Paid; Brief, Filed; Proof of Service, Filed; Notice of Hearing, Filed (Clerk: Tyler,F)
 05/01/2013 **Præcipe, Filed** (Judicial Officer: Borman, Susan D.)
 05/02/2013 **Status Conference (9:30 AM)** (Judicial Officer Borman, Susan D.)
 04/15/2013 Reset by Court to 04/19/2013
 04/19/2013 Reset by Court to 04/23/2013
 04/23/2013 Reset by Court to 05/02/2013
 Result: Held
 05/02/2013 **Motion Hearing (9:30 AM)** (Judicial Officer Borman, Susan D.)
 Plaintiff - Plaintiff's Motion for Continuance
 04/12/2013 Reset by Court to 04/26/2013
 04/26/2013 Reset by Court to 05/03/2013
 05/03/2013 Reset by Court to 05/02/2013
 Result: Held
 05/02/2013 **Motion Hearing (9:30 AM)** (Judicial Officer Borman, Susan D.)
 Defendant Efficient Design - Motion to Compel Discovery From Plaintiff
 05/10/2013 Reset by Court to 05/02/2013
 Result: Held
 05/02/2013 **Status Conference Scheduling Order, Signed and Filed** (Judicial Officer: Borman, Susan D.)
 s/c 12-10, w/ 7-11, disc 10-13, ce 10-28, 2nd s/c 12-16 (Clerk: Smith,P)
 05/02/2013 **Motion Denied, Order to Follow** (Judicial Officer: Borman, Susan D.)
 denied continuance (Clerk: Smith,P)
 05/02/2013 **Motion to Compel Action Granted, Order to Follow** (Judicial Officer: Borman, Susan D.)
 (Clerk: Smith,P)
 05/02/2013 **Motion to Withdraw as Attorney Granted, Order to Follow** (Judicial Officer: Borman, Susan D.)
 (Clerk: Smith,P)
 05/02/2013 **Status Conference Scheduling Order, Signed and Filed**
 (Clerk: Tyler,F)
 05/02/2013 **Status Conference Scheduling Order, Signed and Filed** (Judicial Officer: Borman, Susan D.)
 05/03/2013 **CANCELED Motion Hearing (9:00 AM)** (Judicial Officer Borman, Susan D.)
 Dismiss Hearing or Injunction
 Dismiss Hearing or Injunction
 05/03/2013 **Appearance of Attorney, Filed**
 (Clerk: Tyler,F)
 05/03/2013 **Order for Miscellaneous Action, Signed and Filed**
 (Clerk: Tyler,F)
 05/06/2013 **Settlement Conference Scheduled**
 (Clerk: Fowler,R)
 05/06/2013 **Notice of Hearing, Filed**
 (Clerk: Tyler,F)
 05/10/2013 **Notice of Hearing, Filed**
 (Clerk: Tyler,F)
 06/06/2013 **Answer to Motion, Filed**
 (Clerk: Tyler,F)
 06/10/2013 **Notice of Hearing, Filed**
 (Clerk: Tyler,F)
 06/14/2013 **Motion to Vacate Order, Filed**
 Fee: \$20.00 PAID (Clerk: Tyler,F)
 06/14/2013 **Motion to Compel Action, Filed**
 Fee: \$20.00 Paid; Brief, Filed; Proof of Service, Filed; Notice of Hearing, Filed (Clerk: Tyler,F)
 06/17/2013 **Answer to Motion, Filed**
 (Clerk: Tyler,F)
 06/17/2013 **Answer to Motion, Filed**
 (Clerk: Tyler,F)
 06/18/2013 **Answer to Motion, Filed**
 (Clerk: Tyler,F)
 06/19/2013 **Answer to Motion, Filed**
 (Clerk: Tyler,F)
 06/19/2013 **Præcipe, Filed** (Judicial Officer: Borman, Susan D.)
 06/19/2013 **Præcipe, Filed** (Judicial Officer: Borman, Susan D.)
 06/19/2013 **Præcipe, Filed** (Judicial Officer: Borman, Susan D.)
 06/19/2013 **Answer to Motion, Filed**
 (Clerk: Tyler,F)

6/24/13

<https://cmspublic.3rdcc.org/CaseDetail.aspx?CaseID=2300181>

- 06/21/2013 **Motion Hearing** (9:00 AM) (Judicial Officer Borman, Susan D.)
df Efficient design mtn to compel
Result: Held
- 06/21/2013 **Motion Hearing** (9:00 AM) (Judicial Officer Borman, Susan D.)
Defendant - Defendant's Motion to Compel Answers to Interrogatories and Production of Documents
Result: Held
- 06/21/2013 **Motion Hearing** (9:00 AM) (Judicial Officer Borman, Susan D.)
Plaintiff - MOTION TO COMPEL DEFENDANT TO RETURN INADVERTENTLY PRODUCED DISCOVERY MATERIALS
06/28/2013 Reset by Court to 06/21/2013
Result: Held
- 06/21/2013 **Motion Hearing** (9:00 AM) (Judicial Officer Borman, Susan D.)
Plaintiff - MOTION TO VACATE PROTECTIVE ORDER
06/28/2013 Reset by Court to 06/21/2013
Result: Held
- 06/21/2013 **Order for Miscellaneous Action, Signed and Filed**
(Clerk: Tyler,F)
- 06/21/2013 **Motion to Compel Action Granted, Order to Follow** (Judicial Officer: Borman, Susan D.)
(Clerk: Smith,P)
- 06/21/2013 **Motion to Compel Action Granted, Order to Follow** (Judicial Officer: Borman, Susan D.)
(Clerk: Smith,P)
- 06/21/2013 **Motion for Discovery Granted, Order to Follow** (Judicial Officer: Borman, Susan D.)
return discovery paper work (Clerk: Smith,P)
- 06/21/2013 **Motion Denied, Order to Follow** (Judicial Officer: Borman, Susan D.)
denied mtn to vacate (Clerk: Smith,P)
- 06/21/2013 **Witness List, Filed**
Proof of Service, Filed (Clerk: Tyler,F)
- 10/23/2013 **Case Evaluation - General Civil**
(Clerk: Fowler,R)
- 12/10/2013 **Settlement Conference** (9:30 AM) (Judicial Officer Borman, Susan D.)

No "special
Conference"
listed

REGISTER OF ACTIONSCASE NO. 13-000652-NI**RELATED CASE INFORMATION****Related Cases**

11-014149-NF (Prior Action)

PARTY INFORMATION

Defendant	CULPERT, KEVIN THOMAS	Lead Attorneys Ahmed M. Hassouna <i>Retained</i> (248) 764-1210(W)
Defendant	EFFICIENT DESIGN, INC.	James C. Wright <i>Retained</i> (248) 851-4111(W)
Plaintiff	Filas, Tamara	Pro Se
Plaintiff	FILAS, TAMARA	Daryle G. Salisbury <i>Retained</i> (248) 348-6820(W)

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS

01/14/2013 [Service Review Scheduled](#)

01/14/2013 [Status Conference Scheduled](#)

01/14/2013 [Case Filing Fee - Paid](#)

01/14/2013 [Complaint, Filed](#)

02/06/2013 [Answer to Complaint-with Jury Demand, Filed](#)

02/06/2013 [Proof of Service, Filed](#)

02/07/2013 [Request for Admissions, Filed](#)

02/12/2013 [Appearance of Attorney, Filed](#)

02/19/2013 [Service of Complaint, filed](#)

02/19/2013 [Answer to Affirmative Defenses, Filed](#)

02/20/2013 [Answer to Complaint-with Jury Demand, Filed](#)

02/20/2013 [Witness List, Filed](#)

02/25/2013 [Affirmative Defenses, Filed](#)

03/11/2013 [Appearance of Attorney, Filed](#)

03/26/2013 [Motion to Extend Time, Filed](#)

04/03/2013 [Notice of Hearing, Filed](#)

04/04/2013 [Praecipe, Filed](#) (Judicial Officer: Borman, Susan D.)

04/19/2013 [Notice of Hearing, Filed](#)

04/19/2013 [Motion to Compel Answers to Interrogatories, Filed](#)

04/22/2013 [Motion to Consolidate, Filed](#)

04/24/2013 [Praecipe, Filed](#) (Judicial Officer: Borman, Susan D.)

04/24/2013 [Notice of Hearing, Filed](#)

04/26/2013 **CANCELED Motion Hearing (9:00 AM)** (Judicial Officer Borman, Susan D.)
Scheduling Error
04/12/2013 *Reset by Court to 04/26/2013*

04/29/2013 [Miscellaneous Motion, Filed](#)

04/30/2013 [Motion to Compel Action, Filed](#)

05/01/2013 [Praecipe, Filed](#) (Judicial Officer: Borman, Susan D.)

05/02/2013 **Status Conference (9:30 AM)** (Judicial Officer Borman, Susan D.)
04/15/2013 *Reset by Court to 04/19/2013*
04/19/2013 *Reset by Court to 04/23/2013*
04/23/2013 *Reset by Court to 05/02/2013*
Result: Held

05/02/2013 **Motion Hearing (9:30 AM)** (Judicial Officer Borman, Susan D.)
04/12/2013 *Reset by Court to 04/26/2013*
04/26/2013 *Reset by Court to 05/03/2013*
05/03/2013 *Reset by Court to 05/02/2013*
Result: Held

05/02/2013 **Motion Hearing (9:30 AM)** (Judicial Officer Borman, Susan D.)
05/10/2013 *Reset by Court to 05/02/2013*
Result: Held

- 05/02/2013 **Status Conference Scheduling Order, Signed and Filed** (Judicial Officer: Borman, Susan D.)
- 05/02/2013 **Motion Denied, Order to Follow** (Judicial Officer: Borman, Susan D.)
- 05/02/2013 **Motion to Compel Action Granted, Order to Follow** (Judicial Officer: Borman, Susan D.)
- 05/02/2013 **Motion to Withdraw as Attorney Granted, Order to Follow** (Judicial Officer: Borman, Susan D.)
- 05/02/2013 [Status Conference Scheduling Order, Signed and Filed](#)
- 05/02/2013 [Status Conference Scheduling Order, Signed and Filed](#) (Judicial Officer: Borman, Susan D.)
- 05/03/2013 **CANCELED Motion Hearing (9:00 AM)** (Judicial Officer Borman, Susan D.)
Dismiss Hearing or Injunction
- 05/03/2013 [Appearance of Attorney, Filed](#)
- 05/03/2013 [Order for Miscellaneous Action, Signed and Filed](#)
- 05/06/2013 **Settlement Conference Scheduled**
- 05/06/2013 [Notice of Hearing, Filed](#)
- 05/10/2013 [Notice of Hearing, Filed](#)
- 06/06/2013 [Answer to Motion, Filed](#)
- 06/10/2013 [Notice of Hearing, Filed](#)
- 06/14/2013 [Motion to Vacate Order, Filed](#)
- 06/14/2013 [Motion to Compel Action, Filed](#)
- 06/17/2013 [Answer to Motion, Filed](#)
- 06/17/2013 [Answer to Motion, Filed](#)
- 06/18/2013 [Answer to Motion, Filed](#)
- 06/19/2013 [Answer to Motion, Filed](#)
- 06/19/2013 [Praecipe, Filed](#) (Judicial Officer: Borman, Susan D.)
- 06/19/2013 [Praecipe, Filed](#) (Judicial Officer: Borman, Susan D.)
- 06/19/2013 [Praecipe, Filed](#) (Judicial Officer: Borman, Susan D.)
- 06/19/2013 [Answer to Motion, Filed](#)
- 06/21/2013 **Motion Hearing (9:00 AM)** (Judicial Officer Borman, Susan D.)
Result: Held
- 06/21/2013 **Motion Hearing (9:00 AM)** (Judicial Officer Borman, Susan D.)
Result: Held
- 06/21/2013 **Motion Hearing (9:00 AM)** (Judicial Officer Borman, Susan D.)
06/28/2013 Reset by Court to 06/21/2013
Result: Held
- 06/21/2013 **Motion Hearing (9:00 AM)** (Judicial Officer Borman, Susan D.)
06/28/2013 Reset by Court to 06/21/2013
Result: Held
- 06/21/2013 [Order for Miscellaneous Action, Signed and Filed](#)
- 06/21/2013 **Motion to Compel Action Granted, Order to Follow** (Judicial Officer: Borman, Susan D.)
- 06/21/2013 **Motion to Compel Action Granted, Order to Follow** (Judicial Officer: Borman, Susan D.)
- 06/21/2013 **Motion for Discovery Granted, Order to Follow** (Judicial Officer: Borman, Susan D.)
- 06/21/2013 **Motion Denied, Order to Follow** (Judicial Officer: Borman, Susan D.)
- 06/21/2013 [Witness List, Filed](#)
- 06/24/2013 **Case Evaluation - General Civil**
- 06/24/2013 **Special Conference (2:00 PM)** (Judicial Officer Borman, Susan D.)
Result: Held
- 06/24/2013 **Closed - Case Dismissed, Order to Follow** (Judicial Officer: Borman, Susan D.)
- 06/25/2013 [Notice of Presentment](#)
- 06/28/2013 **Motion Transcript Ordered**
- 07/02/2013 [Objection to 7-Day Order, Filed](#)
- 07/05/2013 [Notice of Hearing, Filed](#)
- 07/09/2013 [Notice of Hearing, Filed](#)
- 07/09/2013 **Transcript, Filed**
- 07/11/2013 [Witness List, Filed](#)
- 07/16/2013 [Answer to Objection, Filed](#)
- 07/19/2013 [Notice of Hearing, Filed](#)
- 07/22/2013 [Concurrence, Filed](#)
- 08/07/2013 [Proof of Service, Filed](#)
- 08/07/2013 [Reply to Answer, Filed](#)
- 08/07/2013 [Concurrence, Filed](#)
- 08/09/2013 **Motion Hearing (9:00 AM)** (Judicial Officer Borman, Susan D.)
07/24/2013 Reset by Court to 08/09/2013
Result: Held
- 08/09/2013 **Motion Denied, Order to Follow** (Judicial Officer: Borman, Susan D.)
- 08/09/2013 [Final - Order of Dismissal, Signed and Filed](#)
- 08/30/2013 **Transcript, Filed**
- 12/10/2013 **CANCELED Settlement Conference (9:30 AM)** (Judicial Officer Borman, Susan D.)
Case Disposed/Order Previously Entered
- 01/17/2014 **Letter, Filed**
- 01/24/2014 [Claim of Appeal, Filed](#)
- 01/30/2014 **File Sent**
- 01/30/2014 **Motion Transcript Ordered**
- 02/26/2014 **Transcript, Filed**
- 11/25/2014 **Higher Court Order/Decision Received by Circuit Court**
- 01/27/2015 **Higher Court Order/Decision Received by Circuit Court**

← Special Conference Listed

Exhibit L

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

FILED IN MY OFFICE
WAYNE COUNTY CLERK
7/2/2013 3:28:24 PM
CATHY M. GARRETT

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 OBJECTION TO DEFENDANT EFFICIENT DESIGN INC.'S
PROPOSED ORDER OF DISMISSAL WITHOUT PREJUDICE**

NOW COMES the Plaintiff, Tamara Filas, objecting to Defendant Efficient Design's proposed Order of Dismissal Without Prejudice, and states as follows:

1. Defendant Efficient Design, Inc.'s Notice of Submission of Seven-Day Order states that the Plaintiff has seven days from the date of service to object to the entry of the Defendant's proposed Order of Dismissal without Prejudice. Although the proof of

service states that this notice was served on June 24, 2013, it was not filed with the court nor received through the e-filing system by the Plaintiff until June 25, 2013 at approximately 2:15 PM. Plaintiff contends the seven days to object to the Defendant's proposed order should be counted from June 25, 2013 for a deadline of July 2, 2013, and prays this court agrees.

2. On April 30, 2013, Defendant Efficient Design, Inc. mailed Plaintiff a Combined Request for Admissions and Requests for Production of Documents to Plaintiff, a set of First Interrogatories to Plaintiff, and Interrogatories and Request for Production of Documents regarding the Existence of the Medicare/Medicaid Lien. He sent these requests without any authorization forms enclosed.
3. On the morning of June 21, 2013, Plaintiff provided answers to interrogatories to both Defendants, Kevin Culpert and Efficient Design, Inc. to their respective attorneys, Mr. Hassouna and Mr. Wright.
4. To meet Mr. Hassouna's request for production of medical records, Plaintiff provided Mr. Hassouna, attorney for Defendant, Kevin Culpert, with signed SCAO MC 315 authorization forms for her healthcare providers, which he indicated were acceptable.
5. With regard to the production of documents for Mr. Wright, Defendant Efficient Design asked only for "copies of any and all medical records relating to injuries received as a result of the subject accident", "copies of any and all photographs with regard to this accident," and for Plaintiff to sign an enclosed authorization form regarding Medicare/Medicaid benefits. (Exhibit A, relevant pages from Efficient Design's request for production)

6. Plaintiff answered all of Efficient Design's interrogatories and provided a CD of her photographs with regard to the accident to Mr. Wright. No authorization forms for the Plaintiff to sign were enclosed with the documents mailed April 30, 2013, nor were any provided to Plaintiff before the June 21, 2013 hearing on Efficient Design's Motion to Compel Discovery from Plaintiff.
7. At the aforementioned June 21, 2013 hearing, Defendant Efficient Design admitted that no medical authorization forms were provided to Plaintiff to sign due to the fact that they did not know the Plaintiff's healthcare providers since they just received the Plaintiff's answers to interrogatories that morning. Mr. Wright did not mention that no authorization forms for records of any kind were provided to Plaintiff.
8. Judge Borman ruled that Defendant Efficient Design send the Plaintiff health care authorization forms to be signed and returned to Defendant Efficient Design by 2:00 PM Monday, June 24, 2013. Plaintiff 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.
9. Mr. Wright had been uncooperative in the past with Plaintiff. He wouldn't even disclose what insurance company he was representing and had denied that Kevin Culpert was an agent of Efficient Design in his answer to the complaint against Efficient Design. However, at the June 21, 2013 hearing, Mr. Wright admitted that Efficient Design was indeed Kevin Culpert's employer. At the hearing on June 21, 2013, the Court told Defendants to depose Mr. Culpert to determine if he was in the scope of his employment when he hit Plaintiff's vehicle. Plaintiff's June 21, 2013 motion not to release her medical

information to Efficient Design, until it was determined that Efficient Design was liable to pay damages to Plaintiff, was denied by the Court at the June 21, 2013 hearing.

10. By 5:00 PM June 21, 2013, the standard close of business time in the U.S., Plaintiff had not received any health care authorization forms from Mr. Wright in her e-mail inbox and she became concerned about not being able to meet the June 24, 2013 2:00 PM deadline to get copies of the signed health care authorization forms to Mr. Wright in time to avoid a court appearance at 2:00 PM on June 24, 2013.
11. Given Mr. Wright's uncooperative attitude he has displayed in dealing with her to date, and his failure to provide the medical authorization forms to Plaintiff by the close of business on June 21, 2013, as ordered by the court, Plaintiff decided it would be foolish to count on Mr. Wright to provide the forms necessary for her to meet the deadline of getting them filled out, signed and returned to Mr. Wright before 2:00 PM June 24, 2013 as ordered by the Court.
12. Thereby, Plaintiff decided to fill out and provide the same SCAO medical authorization forms she provided to Mr. Hassouna, for Mr. Wright. Since these forms were acceptable to Mr. Hassouna, Plaintiff reasoned they would also be acceptable to Mr. Wright.
13. Completing the authorization forms for all of Plaintiff's healthcare providers was a long, tedious process. At another location on June 21st, Plaintiff entered the data into no less than 20 forms and printed them out and recruited the help of others to address and stuff envelopes, fill out certificates of mailing, copying and organizing cover letters and authorizations, etc. in order to get all of the authorizations mailed on June 21, 2013 before the post office closed at 8:00 PM. Plaintiff then had to copy the certificates of mailing for Mr. Wright and attach them to all of the medical releases and cover letters

that she had sent out. She would not have been able to mail them until Saturday, June 22, 2013.

14. Plaintiff also made the decision not to mail the copies of the forms to Mr. Wright on Saturday because she did want to take the chance that they would not reach him by the June 24, 2013, 2 o'clock deadline imposed by the Court and risk the dismissal of her case. Instead, on Monday, June 24, 2013, at 11:24 AM, Plaintiff delivered copies of the aforementioned cover letters, signed authorizations, and copies of the certificates of mailing to Mr. Wright's office, meeting her obligation of providing signed authorizations disclosing her medical records to Mr. Wright by 2:00 PM June 24, 2013. (Exhibit B, signed cover letter verifying authorizations were received at 11:24 AM on 6-24-13)
15. At 3:28PM on June 24, 2013, Plaintiff received a voicemail from court clerk, Ms. Smith stating, "you were to produce all records which did not happen. The judge has dismissed your case."
16. Plaintiff returned Ms. Smith's phone call and explained that she had dropped off signed authorizations to Mr. Wright's office that morning at around 11:30 AM and therefore **did** meet the 2:00 PM deadline. Ms. Smith verified that Mr. Wright made a court appearance on June 24, 2013. Ms. Smith claimed that the forms were "altered" and would not clarify any further. Ms. Smith told Plaintiff that the Judge dismissed the case and that she would have to appeal and order the transcripts to find out what was placed on the record for June 24, 2013.
17. Ms. Smith said nothing about being able to file an objection within 7 days. Plaintiff was exhausted after the June 21, 2013 hearing after preparing interrogatories for Mr. Hassouna who did not supply her copies the interrogatory questions until June 5, 2013.

Plaintiff had to finish Mr. Hassouna's extensive interrogatories before she began Mr. Wright's interrogatories, which were also due on June 21, 2013. Plaintiff did not expect any further filings from the Court and did not find the notice of the 7-day order in her inbox until July 1, 2013. Had Ms. Smith informed Plaintiff that she could file an objection within 7 days instead of ordering transcripts and filing an appeal, Plaintiff would have filed this objection sooner.

18. At the June 21, 2013 hearing, Plaintiff was told she had to deliver signed authorizations to Mr. Wright by 2:00 PM, not that she had to make a court appearance with the authorizations at 2:00 PM. Plaintiff looked at the Register of Actions on the morning of June 24, 2013 and printed a Register of Actions on June 24, 2013 after the close of court at 4:30 PM and no hearing was shown for June 24, 2013. Plaintiff did not check the Register of Actions again until July 1, 2013, which now lists a "special conference" held on June 24, 2013 at 2:00 PM (Exhibit C, Register of Actions dated 6-24-13)
19. Plaintiff was not aware a "special conference" was going to be held on June 24, 2013 at 2:00 PM. Defendant's attorney, Mr. Wright never informed Plaintiff that the signed and mailed medical authorizations she delivered to his office at 11:24 AM June 24, 2013 were deemed by Mr. Wright to be "altered", necessitating a court appearance at 2:00 PM June 24, 2013.
20. The fact that Mr. Wright did not inform Plaintiff that he was dissatisfied with the fully executed authorizations that Plaintiff had signed and mailed June 21, 2013 to her providers that she hand delivered copies to his office at 11:26 AM June 24, 2013, and he appeared before the Court on June 24, 2013 to have the case dismissed without Plaintiff's knowledge, denied Plaintiff due process of law. She was led to believe she had met her

obligation to provide the signed authorizations to Mr. Wright in a timely manner by his inaction to inform her of his dissatisfaction with the forms she executed. Plaintiff even waited until 5:00 pm June 21, 2013, to check her e-mail one last time for e-mailed forms from Mr. Wright, before she left her house to complete the task of getting the authorizations signed, copied, and envelopes and certificates of mailing addressed for mailing on June 21, 2013. She mailed signed authorizations to her providers using the same forms that were acceptable to Mr. Hassouna. Mr. Wright did not meet his obligation of getting the e-mailed forms to her before the close of the business day on Friday, June 21, 2013 as promised. Plaintiff tried to include every record that the Defendant was entitled to under the no-fault law. She even allowed the Defendant to have her records back to birth, even though they had only been requested from 2002 to present in some cases. Plaintiff was very concerned about complying with the Judge's order and not having her case dismissed by not getting the forms to Mr. Wright on time.

21. To determine what Mr. Wright meant by "altered," Plaintiff had to obtain the record for June 24, 2013. On June 28, 2013, Plaintiff ordered the transcripts of the June 21, 2013 and June 24, 2013 hearings. On July 1, 2013, Plaintiff requested from Marge Bamonte, court reporter, to expedite the transcripts, which Ms. Bamonte agreed to do. Therefore, at this time, Plaintiff can only speculate as to what was meant by the word "altered" when used by clerk Ms. Smith to explain why Plaintiff's case was dismissed.

22. The first thing that came to mind was that Plaintiff had realized she had miscopied Mr. Wright's mailing address on the authorizations delivered to his office at 11:24 AM on June 24, 2013, after they were delivered. At the time Plaintiff returned Ms. Smith's call, Plaintiff was working on completing another full set of authorization forms and

certificates of mailing to the health care providers with a cover letter explaining the correction to the address on the first set of authorizations Plaintiff mailed on June 21, 2013. This was another time-consuming task for which the Plaintiff had to recruit the help of others to complete on June 24, 2013.

23. Plaintiff also discovered while correcting the addresses that she had not filled out a form for Dr. Wardner or Dr. Lasichak's records, which she completed and mailed to those health care providers on June 24, 2013, for Mr. Hassouna and Mr. Wright to receive her records.

24. The second thing that came to mind with regard to what may have been meant by "altered" forms was that the forms Plaintiff sent to her health care providers to release medical information to Mr. Wright, were not provided to her by Mr. Wright, because as explained in item #10, Mr. Wright had not e-mailed any forms to Plaintiff before the end of the business day on June 21, 2013.

25. Plaintiff denies she altered the authorization forms for this reason: In order for Plaintiff to "alter" Mr. Wright's authorization forms, she would have had to have received copies of them first in order to make alterations. It was not until after Plaintiff spoke to Ms. Smith around 3:30 PM on the afternoon of June 24, 2013 that Plaintiff discovered a FedEx package in her door mailed from Mr. Wright's office on June 21, 2013, stamped with a delivery time of 3:00 PM June 24, 2013, which was after the 2:00 PM deadline on June 24, 2013 to have the authorizations signed for Mr. Wright. (exhibit D, FedEx time/date stamped envelope) It contained a packet of numerous authorizations for Plaintiff to sign. It wasn't until after June 24, 2013 that Plaintiff discovered she had an e-mail from Mr. Wright's office in her inbox dated June 21, 2013, which was sent after 5 PM, containing

electronic copies of the authorizations, but she had already completed and sent out the other authorizations. Plaintiff was already at another location, where the authorizations were prepared for mailing on June 21, 2013. Plaintiff had neither hard copies nor electronic copies of authorization forms from Mr. Wright from which to make alterations. Plaintiff simply used the Supreme Court mandated medical authorization forms to satisfy the requirement in the written interrogatories from Efficient Design to supply medical records to Mr. Wright. Plaintiff did not make alterations to Mr. Wright's authorizations because she hadn't received any authorization forms from Mr. Wright prior to mailing out the other authorizations the evening of June 21, 2013.

26. Let it be clear that Plaintiff had no malicious intent when she completed the same forms for Mr. Wright that she completed for Mr. Hassouna. Mr. Wright's authorization forms were not delivered to her home until 3:00 PM, which was after the 2:00 PM deadline to have them submitted to his office. Plaintiff simply wanted to make sure she fulfilled her obligation to provide medical records to prevent her case from being dismissed.
27. Plaintiff did provide signed authorizations for Efficient Design to receive "copies of any and all medical records relating to injuries received as a result of the subject accident," as requested by Efficient Design in their Request for Production of documents, and therefore met her obligation, as Efficient Design did not request any specific forms be used.
28. The court clerk claimed Plaintiff did not produce all records. Plaintiff provided all of the records she was requested to provide. Plaintiff provided only her medical authorizations for Efficient Design to obtain her medical records because those were the only records that Efficient Design requested that required authorizations, and the only records that the

Court ruled the Plaintiff to produce authorizations for. In addition to authorization forms for her medical providers, the FedEx packet mailed on June 21, 2013 also included additional authorizations for Plaintiff to fill out for her academic records, employment records, tax returns, Blue Cross Blue Shield and MEEMIC insurance records, psychotherapy notes, and records from Don Massey Cadillac. None of these additional records were requested by Efficient Design in the original Interrogatories or Requests for Production of Documents that Plaintiff delivered to Mr. Wright on June 21, 2013 at the court, and Plaintiff was not aware they were desired by Efficient Design. Plaintiff did not “alter” by selectively choosing specific records to be received by Efficient Design. Plaintiff could not have been trying to “alter” the records that Efficient Design was requesting of her, included in the packet, because the request for these additional records was never made until the mailing of the medical authorizations on June 21, 2013.

29. Furthermore, the June 21, 2013 Defendant’s Request for Production of Documents to Plaintiff, which included additional records requests as stated in item #28, states that it “hereby requests 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.**” The document then lists the requested documents, including additional authorizations over and above the original request for medical records in the original Interrogatories and Request for Production of Documents. Since the Defendant stated that they were allowing 28 days for Plaintiff to return the signed authorizations, which were mailed on June 21, 2013, it would have been unfair to then file an Order of Dismissal on June 25, 2013, claiming the forms were “altered”, especially since the packet of authorizations

was not delivered to Plaintiff until 3:00 PM June 24, 2013. (Exhibit E, first page of Request for Production dated 6-21-13)

30. If this case is dismissed, Plaintiff will not be able to re-file because the 3-year statute of limitations to file this third-party no-fault auto tort ran out on January 15, 2013. Thereby, Plaintiff will suffer a substantial monetary loss due to unrecoverable benefits for injuries she suffered as the result of the auto accident.
31. Plaintiff also does not believe Efficient Design should have the ability to dismiss Plaintiff's entire case, when two other defense attorneys, one representing Efficient Design, and the other representing Kevin Culpert, have not asked for the case to be dismissed. The first attorney is Michael C. O'Malley who represents another insurance company for Efficient Design. The second attorney is Ahmed Hassouna, who represents Kevin Culpert.
32. Plaintiff has one other related concern. Since Plaintiff's understanding after her June 24, 2013 conversation with Precious Smith was that her case was already dismissed, and her only option was to appeal, Plaintiff was not able to file a timely motion to extend time to submit her witness list, which is currently due on July 11, 2013. Plaintiff still intends to find an attorney to help her proceed with her case and will require additional time to retain expert witnesses. Plaintiff prays that this Court will allow Plaintiff extended time to submit her witness list, if her Objection to Defendant's proposed Order of Dismissal without Prejudice is granted.

WHEREFORE, Plaintiff, Tamara Filas, respectfully requests that this Honorable Court deny Defendant's proposed Order of Dismissal without Prejudice, consider

Plaintiff to have fulfilled her obligation of providing her medical records to Defendant Efficient Design, allow Plaintiff time to review and return Efficient Design's authorizations for additional records mentioned in item #28 above, and allow for an extension of time for Plaintiff to file her witness list.

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

Dated: July 2, 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.

Defendants.

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	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

CERTIFICATE OF SERVICE

I hereby certify that on July 2, 2013, I electronically filed **PLAINTIFF'S OBJECTION TO DEFENDANT EFFICIENT DESIGN INC.'S PROPOSED ORDER OF DISMISSAL WITHOUT PREJUDICE**, 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: July 2, 2013

e-mail redacted

Exhibit M

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

MS. TAMARA FILAS,

Plaintiff,

Case No. 13-000 652-NI

vs.

**KEVIN CULPERT AND EFFICIENT
DESIGN, INC.,**

Defendant.

MOTION HEARING

Before the **HONORABLE SUSAN D. BORMAN**, Circuit Court
Judge - Detroit, Michigan - Monday, June 24th, 2013.

APPEARANCES:

MS. TAMARA FILAS, In Pro Per

MR. JAMES WRIGHT, ESQ.,
Attorney at Law

MR. MICHAEL O'MALLEY, ESQ.,
Attorney at Law

Appearing on behalf of the Defendants.

REPORTED BY: **MARY E. SKINNER CSR 0031**
Official Court Reporter

13 JUL 26 PM 1:33
FHHJ

13 JUL 23 AM 9:13
FHHJ

TABLE OF CONTENTS

WITNESSES:

None

EXHIBITS:

None

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Detroit, Michigan

Monday, June 24th, 2013.

(Proceedings commenced on or about 2:30 p.m.)

THE COURT CLERK: Calling case number 13-000
652 NI. Tamara Filas versus Kevin Culpert and Efficient
Design, Inc..

THE COURT: Okay. You were here on Friday.
Ms. Filas, the plaintiff was here and she was representing
herself. She just refuses to sign the medical authorization,
although she did indicate on Friday she would sign them, and
deliver them to you and we would adjourn this to today to make
sure that happened; otherwise I was going to dismiss the case.

MR. WRIGHT: That's correct, Your Honor.

THE COURT: So, and what happened? Tell me
what happened?

MR. WRIGHT: She did stop by my office and
she provided some authorizations; they are altered. And what
you also said on Friday is that she was to provide unaltered
authorizations. She provided about half of what I asked for.

She failed to provide some of the medical
records; she failed to provide authorizations for her PIP file,
which is very important in this case. Educational records, her
insurance, Blue Cross, Blue Shield. And her employment
records; she is making a wage loss claim in this case.

Educational records are important because

1 she is making a closed head injury in this case, Your Honor.

2 THE COURT: All right. I really don't
3 understand her reluctance to allow any -- and this happened in
4 the PIP case, too -- to allow counsel to see the medical
5 records. So, I have given her lots of adjournments.

6 Isn't someone missing here today?

7 MR. O'MALLEY: Yes, Your Honor.

8 THE COURT: The other counsel was
9 complaining that I was giving her --

10 MR. O'MALLEY: (Interposing) Yes, Your
11 Honor. These are actually only Efficient Designs'
12 authorizations. I know that Mr. Culpert's attorney was going
13 to rely on them also but these are our authorizations; we both
14 represent Efficient Design.

15 THE COURT: I know. I am going to dismiss
16 the case without prejudice. So fill out a blank order.

17 THE REPORTER: Would you please place your
18 names on the record.

19 MR. WRIGHT: My name is Jim Wright. I
20 represent Efficient Design, Inc.

21 MR. O'MALLEY: Your Honor, I am Michael
22 O'Malley and I also represent Efficient Design, Inc.

23 THE COURT: All right.

24 And the record should also reflect that we
25 did try to get Ms. Filas on the phone. She knew about today;

1 she knew that I had adjourned it to today. So she knew she was
2 to be here. We also tried to call her and there is no
3 answering machine and nobody answered the phone.

4 MR. WRIGHT: And she did show up at my
5 office today and dropped off the partial authorizations.

6 THE COURT: Okay.

7 MR. O'MALLEY: Thank you, Your Honor.

8 MR. WRIGHT: Thank you very much, Your
9 Honor.

10 THE COURT: You are welcome.

11 * * *

12 (A short recess)

13 THE COURT: Okay. Let's go back on the
14 record with this.

15 Someone apparently called back and said
16 they were her mother. The person identified themselves as her
17 mother. My clerk, who talked to her said it sounded like Ms.
18 Filas herself.

19 However, this person claiming to be her
20 mother gave us a telephone number. And we called that number
21 as well and no answer.

22 We left a message.

23 MR. WRIGHT: Your Honor, I don't believe we
24 were on the record when we discussed the Order.

25 THE COURT: I thought we were. Okay.

1 MR. WRIGHT: The Order will say that it is
2 hereby ordered that Plaintiff, Ms. Tamara Filas' case is
3 dismissed in its entirety without prejudice. I

4 t is further ordered that this Order will
5 be entered on July 1st, 2013, if no objection is filed on or
6 before July 1st, 2013.

7 THE COURT: Right. But you are going to
8 treat it as a 7-day Order so that she is going to receive it
9 before the Order is entered.

10 MR. WRIGHT: Right. That's why it is put in
11 there about the objections. So she has seven days to object
12 to it.

13 THE COURT: All right. Maybe you should
14 mail it to her as well as file it because --

15 MR. WRIGHT: (Interposing: You want us to
16 submit this Order with you today, Your Honor?

17 THE COURT: Yes. Let me just initial it so
18 I will know and then you will submit it as a 7-Day Order.

19 MR. WRIGHT: Okay. Thank you.

20 MR. O'MALLEY: Thank you very much, Your
21 Honor.

22 THE COURT: You are welcome.

23 (The Proceedings are concluded.)

24 * * *
25 * * *

Exhibit N

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.

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
31700 Middlebelt Road, Suite 150
Farmington Hills, MI 48334
(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

MICHAEL CHARLES O'MALLEY (P59108)
Vandever Garzia
Co-Counsel for Defendant Efficient Design
1450 W Long Lake Road, Suite 100
Troy, MI 48098
(248) 312-2940//fax (248) 267-1242
momalley@vgpclaw.com

**DEFENDANT EFFICIENT DESIGN, INC.'S 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., hereby requests 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.

The following documents are requested:

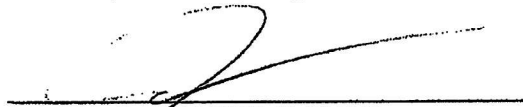
1. Please verify correct addresses, Social Security number, date of birth, execute and return to the law offices of Zausmer, Kaufman, August & Caldwell, P.C., Authorizations for Release of Information directed to the following:

- Dr. Jon Wardner/Associates in Physical Medicine and Rehabilitation
- Gibson School for the Gifted
- Miller Elementary School
- Bird Elementary School
- Central Middle School
- East Middle School
- Plymouth-Canton High School
- University of Michigan (Dearborn)
- University of Michigan (Ann Arbor)
- Eastern Michigan University (educational)
- Western Michigan University (educational)
- Schoolcraft College
- Dearborn Heights School District #7
- Henry Ford Fairlane
- Henry Ford West Bloomfield
- Manzo Eye Care
- Bloomfield Dermatology
- Dr. Lydia Lasichak
- Don Massey Cadillac
- MEEMIC
- Blue Cross Blue Shield
- University of Michigan Emergency
- University of Michigan Health Center Canton
- University of Michigan Hospital
- University of Michigan Taubman Center
- Superior Medical Care
- Henry Ford Columbus Center
- Visual Perception Testing
- Burlington Center
- University of Michigan Neuropsychology
- Canton Urgent Care
- William Beaumont Hospital
- Grosse Pointe Radiology
- Vertical MRI
- Kamil Orthopaedic Group
- Williams Family Medicine
- James Giordano, DDS
- Chelsea Community Hospital

- Soft Touch Chiropractic
- St. Joseph Health System
- Michigan Multispecialty Physicians, PC
- St. Mary Mercy Hospital
- St. John Providence Hospital
- IRS
- Livonia Satellite Physical Therapy

Response:

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: June 21, 2013

Exhibit O

RECEIVED by Michigan Court of Appeals 12/30/2013 3:08:10 PM

Lower Court or Tribunal WAYNE CIRCUIT COURT	STATE OF MICHIGAN IN THE COURT OF APPEALS Cover Sheet	CASE NO. Year: 13 Number: 000652 Case Type: N9 CIRCUIT: 13 000652 N9 COURT OF APPEALS: 317972
--	--	--

Filing Party			
Filing Party Last Name or Business/Entry/Agency Name CULPERT KEVIN THOMAS	Attorney Last Name Broaddus		
Filing Party First Name M.I. _____	Attorney First Name M.I. P Number Drew W 64658		
Address (Street 1, Street 2, City, State, and ZIP Code)			
_____ _____ _____			
Address(Street 1, Street 2, City, State, and ZIP Code)			
2600 Troy Center Drive P.O. Box 5025 Troy MI 48007-5025			
Attorney Telephone Number (248)539-2807			

Summary of Items Filed				
Type	Filename/Description	Filing Fee	Doc Fee	Total This Filing
Motion - Regular	Defendant-Appellee Thomas K. Culpert's Motion to Affirm and Brief in Support	\$5.00	\$100.00	\$105.00
		3% Service Fee:		\$003.15
Fee Substitute/Alternate Payment		Total All Filings:		\$108.15
Reason:				
<input type="checkbox"/> Appointed Counsel <input type="checkbox"/> Motion To Waive Fee <input type="checkbox"/> Fees Waived in this Case <input type="checkbox"/> MI InterAgency Transfer <input type="checkbox"/> No Fee per MCR 7.203(F)(2)				

Filer Office Use Only: 100589 PIC

The documents listed above were electronically filed with the Michigan Court of Appeals at the date/time stated in the left margin. As a recipient of service of these documents, you may wish to go to <https://wiznet.wiznet.com/appealsmi> to register as a user of the electronic filing system.
 317972 - 365148

Lower Court or Tribunal
WAYNE CIRCUIT COURT

STATE OF MICHIGAN
IN THE COURT OF APPEALS
Proof of Service

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

Case Name: TAMARA FILAS V KEVIN THOMAS CULPERT

On 12/30/2013, one copy of the following documents:

Motion - Regular Defendant-Appellee Thomas K. Culpert's Motion to Affirm and Brief in Support

was delivered to the persons listed below:

Date
12/30/2013

Signature
/s/Sandra L. Vertel

Bar Number	Name	Delivery Method	Service Address
P- 67613	Wright, James C.	E-Serve	appeals@zkac.com
P-	Filas, Tamara	Mail	In Pro Per; 6477 Edgewood; Canton, MI 48187
P- 64658	Broadus, Drew W.	E-Serve	dbroadus@secrestwardle.com
P-	Coomer, Kim	E-Serve	kcoomer@vgpclaw.com
BP- 59108	O'Malley, Michael	E-Serve	momalley@vgpclaw.com
P-	Vertel, Sandra	E-Serve	svertel@secrestwardle.com

RECEIVED by Michigan Court of Appeals 12/30/2013 3:08:10 PM

The documents listed above were electronically filed with the Michigan Court of Appeals at the date/time stated in the left margin. As a recipient of service of these documents, you may wish to go to <https://wiznet.wiznet.com/appealsmi> to register as a user of the electronic filing system.

STATE OF MICHIGAN
IN THE COURT OF APPEALS

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

TAMARA FILAS,

Court of Appeals No. 317972

Plaintiff-Appellant,

Lower Court No. 13-000652-NI

-vs-

THOMAS K. CULPERT and
EFFICIENT DESIGN, INC.,

Defendants-Appellees.

TAMARA FILAS
Plaintiff-Appellant Pro Se
6477 Edgewood
Canton, MI 48187
(734) 751-0103

SECRET WARDLE
DREW W. BROADDUS (P 64658)
Attorneys for Defendant-Appellee T. Culpert
2600 Troy Center Drive, P.O. Box 5025
Troy, MI 48007-5025
(616) 272-7966/FAX: (248) 251-1829
dbroaddus@secrestwardle.com

VANDEVEER GARZIA
MICHAEL C. O'MALLEY (P 59108)
Attorneys for Defendant-Appellee
Efficient Design, Inc.
1450 W Long Lake Rd., Suite 100
Troy, MI 48098
(248) 312-2940/FAX: (248) 267-1242
momalley@vgpclaw.com

**ZAUSMER, KAUFMAN, AUGUST &
CALDWELL, P.C.**
JAMES C. WRIGHT (P 67613)
Co-Counsel for Defendant-Appellee
Efficient Design, Inc.
31700 Middlebelt Rd., Suite 150
Farmington Hills, MI 48334
(248) 851-4111
jwtight@zkact.com

DEFENDANT-APPELLEE THOMAS K. CULPERT'S MOTION TO AFFIRM

Defendant-Appellee Thomas K. Culpert ("Defendant"), for his Motion to Affirm, states
the following:

RECEIVED by Michigan Court of Appeals 12/30/2013 3:08:10 PM

1. MCR 7.211(C)(3) allows a party to file a motion to affirm “[a]fter the appellant’s brief has been filed ... on the ground that (a) it is manifest that the questions sought to be reviewed are so unsubstantial as to need no argument or formal submission; or (b) the questions sought to be reviewed were not timely or properly raised.”

2. The issues raised in Plaintiff-Appellant’s (“Plaintiff”) Brief on Appeal fall squarely within both MCR 7.211(C)(3)(a) and 7.211(C)(3)(b), for reasons explained in the attached Brief.

3. Most significantly, Plaintiff’s Brief on Appeal does not cite a single precedent from this Court or the Michigan Supreme Court. “It is not enough for an appellant in his brief simply to announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority either to sustain or reject his position. The appellant himself must first adequately prime the pump; only then does the appellate well begin to flow.” *Mudge v Macomb County*, 458 Mich 87, 105; 580 NW2d 845 (1998) (citations omitted).

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

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

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

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

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

WHEREFORE, Defendant respectfully requests that this Honorable Court grant this motion, affirm the Circuit Court in all respects, and dismiss Plaintiff’s appeal with prejudice.

SECRET WARDLE

BY: /s/Drew W. Broaddus
DREW W. BROADDUS (P 64658)
Attorney for Defendant-Appellee Culpert
2600 Troy Center Drive, P.O. Box 5025
Troy, MI 48007-5025
(616) 272-7966/FAX: (248) 251-1829
dbroaddus@secrestwardle.com

Dated: December 30, 2013

STATE OF MICHIGAN
IN THE COURT OF APPEALS

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

TAMARA FILAS,

Court of Appeals No. 317972

Plaintiff-Appellant,

Lower Court No. 13-000652-NI

-vs-

THOMAS K. CULPERT and
EFFICIENT DESIGN, INC.,

Defendants-Appellees.

TAMARA FILAS
Plaintiff-Appellant Pro Se
6477 Edgewood
Canton, MI 48187
(734) 751-0103

SECRET WARDLE
DREW W. BROADDUS (P 64658)
Attorneys for Defendant-Appellee T. Culpert
2600 Troy Center Drive, P.O. Box 5025
Troy, MI 48007-5025
(616) 272-7966/FAX: (248) 251-1829
dbroaddus@secretwardle.com

VANDEVEER GARZIA
MICHAEL C. O'MALLEY (P 59108)
Attorneys for Defendant-Appellee
Efficient Design, Inc.
1450 W Long Lake Rd., Suite 100
Troy, MI 48098
(248) 312-2940/FAX: (248) 267-1242
momalley@vgpclaw.com

**ZAUSMER, KAUFMAN, AUGUST &
CALDWELL, P.C.**
JAMES C. WRIGHT (P 67613)
Co-Counsel for Defendant-Appellee
Efficient Design, Inc.
31700 Middlebelt Rd., Suite 150
Farmington Hills, MI 48334
(248) 851-4111
jwtight@zkact.com

**DEFENDANT-APPELLEE THOMAS K. CULPERT'S BRIEF IN SUPPORT
OF HIS MOTION TO AFFIRM**

RECEIVED by Michigan Court of Appeals 12/30/2013 3:08:10 PM

TABLE OF CONTENTS

Index of Authorities	ii
Statement of Jurisdiction	v
Counter-Statement of Questions Involved	vi
Counter-Statement of Facts and Proceedings	1
Standards of Review	4
Argument	
I. In this third-party automobile negligence suit, the Circuit Court properly dismissed Plaintiffs' lawsuit, where Plaintiff put her medical condition into controversy by filing a personal injury claim, but refused to sign authorizations to release her medical records. This tactic – manipulating the physician-patient privilege so as to allow the Plaintiff to selectively disclose relevant evidence – is expressly prohibited by <i>Domako v Rowe</i> and other precedents of the Supreme Court and this Court.	5
Conclusion and Request for Relief	9
Index of Exhibits	

RECEIVED by Michigan Court of Appeals 12/30/2013 3:08:10 PM

INDEX OF AUTHORITIES

CASES

<i>Amway v Grand Rapids R Co,</i> 211 Mich 592; 179 NW 350 (1920)	8
<i>Barclay v Fla,</i> 463 US 939; 103 S Ct 3418 (1983)	9
<i>Coates v Bastian Bros., Inc.,</i> 276 Mich App 498; 741 NW2d 539 (2007)	7
<i>Dep't of Env'tl Quality v Rexair, Inc,</i> 482 Mich 1009; 761 NW2d 91 (2008)	8
<i>Derderian v Genesys Health Care Sys,</i> 263 Mich App 364; 689 NW2d 145 (2004)	7
<i>Domako v Rowe,</i> 438 Mich 347; 475 NW2d 30 (1991)	iv,5,6,9
<i>Estate of Quirk v Commissioner,</i> 928 F2d 751 (6 th Cir 1991)	7
<i>Halbert v Michigan,</i> 545 US 605; 125 S Ct 2582 (2005)	9
<i>Holman v Rasak,</i> 486 Mich 429; 785 NW2d 98 (2010)	5
<i>Howe v Detroit Free Press, Inc.,</i> 440 Mich 203; 487 NW2d 374 (1992)	5
<i>Linsell v Applied Handling, Inc,</i> 266 Mich App 1; 697 NW2d 913 (2005)	4
<i>Melendez v Illinois Bell Tel Co,</i> 79 F3d 661 (7 th Cir 1996)	4
<i>Mudge v Macomb County,</i> 458 Mich 87; 580 NW2d 845 (1998)	9
<i>Myers v Jarnac,</i> 189 Mich App 436; 474 NW2d 302 (1991)	1

<i>Oram v Oram</i> , 480 Mich 1163; 746 NW2d 865 (2008)	8
<i>People v Anderson</i> , 209 Mich App 527; 531 NW2d 780 (1995)	1
<i>People v Taylor</i> , 195 Mich App 57; 489 NW2d 99 (1992)	7
<i>Peterman v Department of Natural Resources</i> , 446 Mich 177; 521 NW2d 499 (1994)	7
<i>Polkton Charter Twp v Pellegrom</i> , 265 Mich App 88; 693 NW2d 170 (2005)	7
<i>Reed Dairy Farm v Consumers Power Co</i> , 227 Mich App 614; 576 NW2d 709 (1998)	5
<i>Saffian v Simmons</i> , 477 Mich 8; 727 NW2d 132 (2007)	4
<i>State v Belken</i> , 633 NW2d 786 (Iowa 2011)	4
<i>Underwood v McDuffee</i> , 15 Mich 361 (1867)	8
<i>Vushaj v Farm Bureau Gen Ins Co of Michigan</i> , 284 Mich App 513; 773 NW2d 758 (2009)	8
 <u>STATUTES</u>	
MCL 600.2157	5,6
MCL 600.308(1)(a)	iii
MCL 600.611	8
 <u>COURT RULES</u>	
MCR 2.302(B)(1)(b)	6
MCR 2.305(A)(1)	5

MCR 2.306(A)(1)	5
MCR 2.310	6
MCR 2.314(B)	5
MCR 2.314(B)(1)	6
MCR 2.314(B)(2)	5
MCR 7.203(A)	iii
MCR 7.210(B)(1)(a)	1
MCR 7.211(C)(3)	9

STATEMENT OF JURISDICTION

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

COUNTER-STATEMENT OF QUESTION INVOLVED

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

The Trial Court said: “yes.”

Plaintiff-Appellant says: “no.”

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

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

RECEIVED by Michigan Court of Appeals 12/30/2013 3:08:10 PM

COUNTER-STATEMENT OF FACTS AND PROCEEDINGS

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

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

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

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

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

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

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

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

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

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

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

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

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

STANDARDS OF REVIEW

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

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

ARGUMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CONCLUSION AND RELIEF REQUESTED

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

As an intermediate appellate court, the principal function of this Court of Appeals is to correct errors made by lower courts. *Halbert v Michigan*, 545 US 605, 617 n 3; 125 S Ct 2582 (2005). "If appellate review is to be meaningful, it must fulfill its basic historic function of correcting error in the trial court proceedings." *Barclay v Fla*, 463 US 939, 989; 103 S Ct 3418 (1983) (Marshall, J., dissenting). Since Plaintiff has not cited any precedent contrary to the trial court's decision, it is impossible for her to say that the trial court erred. Error by the trial court is the *sine qua non* of intermediate appellate review, and Plaintiff has not cogently identified any. For these reasons, "it is manifest that the questions sought to be reviewed are so unsubstantial as to need no argument or formal submission," MCR 7.211(C)(3), and this Court should affirm the Circuit Court forthwith.

SECRET WARDLE

BY: /s/Drew W. Broaddus
DREW W. BROADDUS (P 64658)
Attorney for Defendant-Appellee Culpert
2600 Troy Center Drive, P.O. Box 5025
Troy, MI 48007-5025
(616) 272-7966/FAX: (248) 251-1829
dbroaddus@secrestwardle.com

Dated: December 30, 2013

2416057_2

RECEIVED by Michigan Court of Appeals 12/30/2013 3:08:10 PM

Exhibit P

RECEIVED by Michigan Court of Appeals 10/17/2014 11:16:43 AM

Lower Court or Tribunal
WAYNE CIRCUIT COURT

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

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

Filing Party

Filing Party Last Name or Business/Entity/Agency Name
CULPERT KEVIN THOMAS

Filing Party First Name M.I.
[] []

Address (Street 1, Street 2, City, State, and ZIP Code)
[] [] [] [] [] [] [] [] [] []

Attorney Last Name
Broaddus

Attorney First Name M.I. P Number
Drew W 64658

Address(Street 1, Street 2, City, State, and ZIP Code)
2600 Troy Center Drive
P.O. Box 5025
Troy MI 48007-5025

Attorney Telephone Number
(248)539-2807

Summary of Items Filed

Type	Filename/Description	Filing Fee	Doc Fee	Total This Filing
Motion - Regular	Defendant-Appellee Thomas K. Culpert's Motion to Affirm and Brief in Support	\$5.00	\$100.00	\$105.00
Fee Substitute/Alternate Payment				
Reason:				
<input type="checkbox"/>	Appointed Counsel			
<input type="checkbox"/>	Motion To Waive Fee			
<input type="checkbox"/>	Fees Waived in this Case			
<input type="checkbox"/>	MI InterAgency Transfer			
<input type="checkbox"/>	No Fee per MCR 7.203(F)(2)			
		3% Service Fee:		\$003.15
		Total All Filings:		\$108.15

Filer Office Use Only: 100589 PIC

The documents listed above were electronically filed with the Michigan Court of Appeals at the date/time stated in the left margin. As a recipient of service of these documents, you may wish to go to <https://wiznet.wiznet.com/appealsmi> to register as a user of the electronic filing system.
317972 - 413650

RECEIVED by Michigan Court of Appeals 10/17/2014 11:16:43 AM

Lower Court or Tribunal WAYNE CIRCUIT COURT	STATE OF MICHIGAN IN THE COURT OF APPEALS Proof of Service	CASE NO. CIRCUIT: 13 000652 N9 COURT OF APPEALS: 317972
--	---	---

Case Name: TAMARA FILAS V KEVIN THOMAS CULPERT

On 10/17/2014, one copy of the following documents:

Motion - Regular Defendant-Appellee Thomas K. Culpert's Motion to Affirm and Brief in Support

was delivered to the persons listed below:

Date
10/17/2014

Signature
/s/Sandra L. Vertel

Bar Number	Name	Delivery Method	Service Address
P- 64658	Broaddus, Drew W.	E-Serve	dbroaddus@secrestwardle.com
P-	Coomer, Kim	E-Serve	kcoomer@vgpclaw.com
P-	Filas, Tamara	Mail	6477 Edgewood; Canton, MI 48187
P- 59108	O'Malley, Michael	E-Serve	momalley@vgpclaw.com
dp-	Vertel, Sandra	E-Serve	svertel@secrestwardle.com
P- 67613	Wright, James C.	E-Serve	appeals@zkac.com

The documents listed above were electronically filed with the Michigan Court of Appeals at the date/time stated in the left margin. As a recipient of service of these documents, you may wish to go to <https://wiznet.wiznet.com/appealsmi> to register as a user of the electronic filing system.

RECEIVED by Michigan Court of Appeals 10/17/2014 11:16:43 AM

STATE OF MICHIGAN
IN THE COURT OF APPEALS

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

TAMARA FILAS,

Plaintiff-Appellant,

v

THOMAS K. CULPERT and
EFFICIENT DESIGN, INC.,

Defendants-Appellees.

Court of Appeals No. 317972

Lower Court No. 13-000652-NI

TAMARA FILAS
Plaintiff-Appellant Pro Se
6477 Edgewood
Canton, MI 48187
(734) 751-0103

e-mail redacted

VANDEVEER GARZIA
MICHAEL C. O'MALLEY (P 59108)
Attorneys for Defendant-Appellee
Efficient Design, Inc.
1450 W Long Lake Rd., Suite 100
Troy, MI 48098
(248) 312-2940/FAX: (248) 267-1242
momalley@vgpclaw.com

SECRET WARDLE
DREW W. BROADDUS (P 64658)
Attorneys for Defendant-Appellee T. Culpert
2600 Troy Center Drive, P.O. Box 5025
Troy, MI 48007-5025
(616) 272-7966/FAX: (248) 251-1829
dbroadus@secretwardle.com

**ZAUSMER, KAUFMAN, AUGUST &
CALDWELL, P.C.**
JAMES C. WRIGHT (P 67613)
Co-Counsel for Defendant-Appellee
Efficient Design, Inc.
31700 Middlebelt Rd., Suite 150
Farmington Hills, MI 48334
(248) 851-4111
appeals@zkac.com

DEFENDANT-APPELLEE THOMAS K. CULPERT'S MOTION TO AFFIRM

Defendant-Appellee Thomas K. Culpert ("Culpert"), for his Motion to Affirm, states the following:

1. On October 14, 2014, this Court issued its opinion in *Filas v MEEMIC*, unpublished per curiam opinion (No. 316822) (Ex. 1).

2. *Filas v MEEMIC* arose out of the same motor vehicle accident that gave rise to the instant appeal (*Filas v MEEMIC* was Ms. Filas' first party suit for PIP benefits whereas the instant case is her tort claim). *Filas v MEEMIC* involved a dismissal by the same Circuit Court judge, for the same reason that the instant suit was dismissed (Ms. Filas refused to sign authorizations, despite putting her medical condition into controversy, and was trying to place her own arbitrary limitations on what would be discoverable). (See Appellant's Brief, p 5; 8/9/13 trans, p 3.)

3. The issues raised by Ms. Filas in her appeal in *Filas v MEEMIC* are identical to the issues raised by Ms. Filas in the instant appeal. Compare Ms. Filas' "Questions Presented" in this appeal (Ex. 2) with her Brief on Appeal in *Filas v MEEMIC* (Ex. 3).

4. This Court's rejection of Ms. Filas' arguments in *Filas v MEEMIC* collaterally estops her from raising the same arguments in this case. "Collateral estoppel, also known as issue preclusion, is a common-law doctrine that gives finality to litigants." *People v Wilson*, 496 Mich 91, 98; 852 NW2d 134 (2014). "In essence, collateral estoppel requires that once a court has decided an issue of fact or law necessary to its judgment, that decision may preclude relitigation of the issue in a suit on a different cause of action involving a party to the first case." *Id.* For the doctrine to apply, "(1) a question of fact essential to the judgment must have been actually litigated and determined by a valid and final judgment; (2) the same parties must have had a full and fair opportunity to litigate the issue; and (3) there must be mutuality of estoppel." *Monat v State Farm Ins Co*, 469 Mich 679, 682–684; 677 NW2d 843 (2004). Mutuality of estoppel exists if the party asserting collateral estoppel would have been bound by the previous

litigation if the judgment had gone against that party. *Id.* at 684–685. However, a “lack of mutuality of estoppel does not preclude the use of collateral estoppel when it is asserted defensively to prevent a party from relitigating an issue that such party has already had a full and fair opportunity to litigate in a prior suit.” *Id.* at 691–692. Therefore, the fact that Culpert was not a party to *Filas v MEEMIC* does not prevent him from invoking the doctrine, since Ms. Filas has now had a full and fair opportunity to litigate the precise issue presented here.

5. “The doctrine of collateral estoppel serves many purposes: it relieve[s] parties of the cost and vexation of multiple lawsuits, conserve[s] judicial resources, and, by preventing inconsistent decisions, encourage[s] reliance on adjudication.” *People v Wilson, supra* at 99 (citation omitted). All of these purposes would be advanced by applying the doctrine to bar the instant case.

6. MCR 7.211(C)(3) allows a party to file a motion to affirm “[a]fter the appellant’s brief has been filed ... on the ground that (a) it is manifest that the questions sought to be reviewed are so unsubstantial as to need no argument or formal submission; or (b) the questions sought to be reviewed were not timely or properly raised.”

7. The issues raised in Plaintiff-Appellant’s Brief on Appeal fall squarely within both MCR 7.211(C)(3)(a) and (3)(b), in light of this Court’s opinion in *Filas v MEEMIC*.

WHEREFORE, Culpert respectfully requests that this Honorable Court grant his motion, affirm the Circuit Court in all respects, and dismiss Plaintiff’s appeal with prejudice.

SECRET WARDLE

BY: /s/Drew W. Broaddus
DREW W. BROADDUS (P 64658)
Attorney for Defendant-Appellee Culpert
(616) 272-7966/FAX: (248) 251-1829
dbroaddus@secrestwardle.com

Dated: October 17, 2014

STATE OF MICHIGAN
IN THE COURT OF APPEALS

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

TAMARA FILAS,

Plaintiff-Appellant,

v

THOMAS K. CULPERT and
EFFICIENT DESIGN, INC.,

Defendants-Appellees.

Court of Appeals No. 317972

Lower Court No. 13-000652-NI

TAMARA FILAS
Plaintiff-Appellant Pro Se
6477 Edgewood
Canton, MI 48187
(734) 751-0103

e-mail redacted

VANDEVEER GARZIA
MICHAEL C. O'MALLEY (P 59108)
Attorneys for Defendant-Appellee
Efficient Design, Inc.
1450 W Long Lake Rd., Suite 100
Troy, MI 48098
(248) 312-2940/FAX: (248) 267-1242
momalley@vgpclaw.com

SECRET WARDLE
DREW W. BROADDUS (P 64658)
Attorneys for Defendant-Appellee T. Culpert
2600 Troy Center Drive, P.O. Box 5025
Troy, MI 48007-5025
(616) 272-7966/FAX: (248) 251-1829
dbroadus@secretwardle.com

**ZAUSMER, KAUFMAN, AUGUST &
CALDWELL, P.C.**
JAMES C. WRIGHT (P 67613)
Co-Counsel for Defendant-Appellee
Efficient Design, Inc.
31700 Middlebelt Rd., Suite 150
Farmington Hills, MI 48334
(248) 851-4111
appeals@zkac.com

**DEFENDANT-APPELLEE THOMAS K. CULPERT'S BRIEF IN SUPPORT
OF HIS MOTION TO AFFIRM**

RECEIVED by Michigan Court of Appeals 10/17/2014 11:16:43 AM

TABLE OF CONTENTS

Index of Authorities	ii
Argument	
I. This Court’s October 14, 2014 opinion in <i>Filas v MEEMIC</i> , affirming the trial court’s dismissal of Ms. Filas’ suit, collaterally estops the instant case, where Ms. Filas has raised the very same issues in this appeal that she raised – and that this Court rejected – in <i>Filas v MEEMIC</i> .	1
Conclusion and Request for Relief	2
Index of Exhibits	

RECEIVED by Michigan Court of Appeals 10/17/2014 11:16:43 AM

INDEX OF AUTHORITIES

CASES

Filas v MEEMIC,
unpublished per curiam opinion of the Court of Appeals,
rel'd 10/14/14 (No. 316822) 1-3

Monat v State Farm Ins Co,
469 Mich 679; 677 NW2d 843 (2004) 1,2

People v Wilson,
496 Mich 91; 852 NW2d 134 (2014) 1,2

COURT RULES

MCR 7.211(C)(3) 3

ARGUMENT

This Court’s October 14, 2014 opinion in *Filas v MEEMIC*, affirming the trial court’s dismissal of Ms. Filas’ suit, collaterally estops the instant case, where Ms. Filas has raised the very same issues in this appeal that she raised – and that this Court rejected – in *Filas v MEEMIC*.

On October 14, 2014, this Court issued its opinion in *Filas v MEEMIC*, unpublished per curiam opinion (No. 316822) (Ex. 1). *Filas v MEEMIC* arises out of the same motor vehicle accident that gave rise to the instant appeal (*Filas v MEEMIC* was Ms. Filas’ first party suit for PIP benefits whereas the instant case is her tort claim). *Filas v MEEMIC* involved a dismissal by the same Circuit Court judge, for the same reason that the instant suit was dismissed (Ms. Filas refused to sign authorizations, despite putting her medical condition into controversy, and was trying to place her own arbitrary limitations on what would be discoverable). (See Appellant’s Brief, p 5; 8/9/13 trans, p 3.)

The issues raised by Ms. Filas in her appeal in *Filas v MEEMIC* are identical to the issues raised by Ms. Filas in the instant appeal. Compare Ms. Filas’ “Questions Presented” in this appeal (Ex. 2) with her Brief on Appeal in *Filas v MEEMIC* (Ex. 3).

This Court’s rejection of Ms. Filas’ arguments in *Filas v MEEMIC* collaterally estops her from raising the same arguments in this case. “Collateral estoppel, also known as issue preclusion, is a common-law doctrine that gives finality to litigants.” *People v Wilson*, 496 Mich 91, 98; 852 NW2d 134 (2014). “In essence, collateral estoppel requires that once a court has decided an issue of fact or law necessary to its judgment, that decision may preclude relitigation of the issue in a suit on a different cause of action involving a party to the first case.” *Id.* For the doctrine to apply, “(1) a question of fact essential to the judgment must have been actually litigated and determined by a valid and final judgment; (2) the same parties must have had a full and fair opportunity to litigate the issue; and (3) there must be mutuality of estoppel.” *Monat v*

State Farm Ins Co, 469 Mich 679, 682–684; 677 NW2d 843 (2004). Mutuality of estoppel exists if the party asserting collateral estoppel would have been bound by the previous litigation if the judgment had gone against that party. *Id.* at 684–685. However, a “lack of mutuality of estoppel does not preclude the use of collateral estoppel when it is asserted defensively to prevent a party from relitigating an issue that such party has already had a full and fair opportunity to litigate in a prior suit.” *Id.* at 691–692. Therefore, the fact that Culpert was not a party to *Filas v MEEMIC* does not prevent him from invoking the doctrine, since Ms. Filas has now had a full and fair opportunity to litigate the precise issue presented here.

“The doctrine of collateral estoppel serves many purposes: it relieve[s] parties of the cost and vexation of multiple lawsuits, conserve[s] judicial resources, and, by preventing inconsistent decisions, encourage[s] reliance on adjudication.” *People v Wilson, supra* at 99 (citation omitted). All of these purposes would be advanced by applying the doctrine to bar the instant case.

CONCLUSION AND RELIEF REQUESTED

The facts and procedural history of this case are virtually identical to those of Ms. Filas’ parallel lawsuit, which arose out of the same motor vehicle accident, *Filas v MEEMIC*. In both cases, Ms. Filas refused to sign authorizations, despite putting her medical condition into controversy, and was trying to place her own arbitrary limitations on what would be discoverable. In this case, although it is unclear whether she ever raised the argument in the trial court,¹ Ms. Filas has argued on appeal that SCAO Form 315 was an acceptable substitute, and that the trial court should have allowed her to execute that in place of what she had been ordered to sign. In *Filas v MEEMIC*, this Court squarely rejected that argument. (Ex. 1, pp 4-6.)

¹ See Culpert’s 1/9/14 Brief on Appeal as Appellee, pages 7-8.

Ms. Filas' other arguments in *Filas v MEEMIC* are similarly indistinguishable from the arguments she has raised here. (Compare Ex. 2 with Ex. 3.)

MCR 7.211(C)(3) allows a party to file a motion to affirm “[a]fter the appellant’s brief has been filed ... on the ground that (a) it is manifest that the questions sought to be reviewed are so unsubstantial as to need no argument or formal submission; or (b) the questions sought to be reviewed were not timely or properly raised.” The issues raised in Plaintiff-Appellant’s Brief on Appeal fall squarely within both MCR 7.211(C)(3)(a) and 7.211(C)(3)(b), in light of this Court’s opinion in *Filas v MEEMIC*. For these reasons, Culpert respectfully requests that this Honorable Court grant his motion, affirm the Circuit Court in all respects, and dismiss Plaintiff’s appeal with prejudice.

SECRET WARDLE

BY: /s/Drew W. Broaddus
DREW W. BROADDUS (P 64658)
Attorney for Defendant-Appellee Culpert
2600 Troy Center Drive, P.O. Box 5025
Troy, MI 48007-5025
(616) 272-7966/FAX: (248) 251-1829
dbroaddus@secrestwardle.com

Dated:

October 17, 2014

RECEIVED by Michigan Court of Appeals 10/17/2014 11:16:43 AM

INDEX OF EXHIBITS

- Exhibit 1** Court of Appeals opinion from *Filas v MEEMIC*
- Exhibit 2** Excerpts from Plaintiff-Appellant's Brief on Appeal in the instant case
- Exhibit 3** Plaintiff-Appellant's Brief on Appeal from *Filas v MEEMIC*

2860836_1

Exhibit Q



Lawsuit Discovery Issues

Daryle Salisbury <darylesalisbury@att.net>

Thu, Feb 21, 2013 at 12:06 AM

To: Tamara Filas <**e-mail redacted**>


Hello Tamara,

I am glad we had a chance to talk today. The PDF attachments should also help.


Call me right away.

Daryle

3 attachments

 02-20-13 filas client letter.pdf
118K

 02-20-13 filas efficient design discovery requests.pdf
881K

 02-20-13 filas culprit witness and exhibit list.pdf
313K

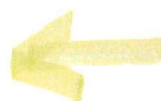


Exhibit R



From: (248) 851-4111
James C. Wright
ZKACT, P.C.
31700 Middlebelt Road
Suite 150
Farmington Hills, MI 48334

Origin ID: DEOA



1131130100006

SHIP TO: (734) 751-0103
Tamara Filas
6477 Edgewood
CANTON, MI 48187

BILL SENDER

Ship Date: 21 JUN 13
Act Wgt: 1.0 LB
CAD: 103129091/INET3370

Delivery Address Bar Code



Ref # 9470-00121
Invoice #
PO #
Dept #

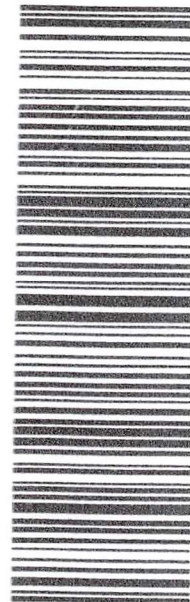
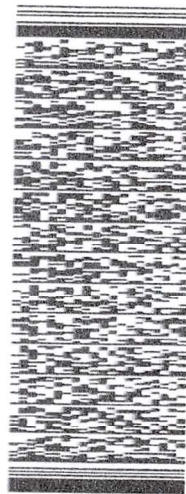
MON - 24 JUN 3:00P
STANDARD OVERNIGHT

TRK# 7960 6816 0170

0201

48187
MI-US
DTW

66 NFBA



519G10r7783AB

Exhibit S

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
6/25/2013 2:15:44 PM
CATHY M. GARRETT

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
31700 Middlebelt Road, Suite 150
Farmington Hills, MI 48334
(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

MICHAEL CHARLES O'MALLEY (P59108)
Vandever Garzia
Co-Counsel for Defendant Efficient Design
1450 W Long Lake Road, Suite 100
Troy, MI 48098
(248) 312-2940//fax (248) 267-1242
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.

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

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
(248) 851-4111

Dated: June 24, 2013

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.

JPB

Honorable Susan D. Borman
Circuit Court Judge



James W. Wright (967613)
Defendant Attorney #

Justi Oblicy

Michael O'Malley
(959108)

Plaintiff Attorney #

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.

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
31700 Middlebelt Road, Suite 150
Farmington Hills, MI 48334
(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

MICHAEL CHARLES O'MALLEY (P59108)
Vandevveer Garzia
Co-Counsel for Defendant Efficient Design
1450 W Long Lake Road, Suite 100
Troy, MI 48098
(248) 312-2940//fax (248) 267-1242
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

Exhibit T

Mandatory Creation of or Use of SCAO-Approved Forms

The following lists identify court forms that are required by court rule or statute to be: 1) approved by the SCAO; 2) used as approved by the SCAO; or 3) used in a form substantially in the form approved by the SCAO.

FORMS SCAO HAS BEEN MANDATED TO CREATE AND APPROVE - USE NOT MANDATORY

Although these forms are SCAO-Approved, their use is not specifically mandated by court rule or statute. Forms are denoted with an asterisk (*) when court rule or statute requires the use of a form substantially in the form of the SCAO-Approved form. In this particular chart, MC forms are for use in circuit, district, and probate courts; DC forms are for use in district courts, FOC forms are for use in friend of the court offices and circuit courts, and PC forms are for use in family divisions of circuit court.

- MC 12*, Request and Writ for Garnishment (Periodic), MCR 3.101(C)
- MC 13*, Request and Writ for Garnishment (Nonperiodic), MCR 3.101(C)
- MC 14*, Garnishee Disclosure, MCR 3.101(C)
- MC 15, Motion for Installment Payments, MCR 3.101(C)
- MC 15a, Order Regarding Installment Payments, MCR 3.101(C)
- MC 16, Motion to Set Aside Order for Installment Payments, MCR 3.101(C)
- MC 16a, Order on Motion to Set Aside Order for Installment Payments, MCR 3.101(C)
- MC 48, Final Statement on Garnishment of Periodic Payments, MCR 3.101(C)
- MC 49, Objections to Garnishment and Notice of Hearing, MCR 3.101(C)
- MC 50, Garnishment Release, MCR 3.101(C)
- MC 51, Order on Objections to Garnishment, MCR 3.101(C)
- MC 52*, Request and Writ for Garnishment (Income Tax Refund/Credit), MCR 3.101(C)
- MC 203*, Writ of Habeas Corpus, MCR 3.303(H) and MCR 3.304(D)
- MC 258*, Report of Nonpayment of Restitution, MCL 712A.30(18), MCL 780.766(18), MCL 780.794(18), and MCL 780.826(15)
- MC 288*, Order to Remit Prisoner Funds for Fines, Costs, and Assessments, MCL 769.11
- MC 292*, Disclosure of Employment or Contract in Michigan Public System, MCL 380.1230d(2)
- DC 84*, Affidavit and Claim, Small Claims, MCR 4.302(A), MCL 600.8401a, and MCL 600.8402
- FOC 50, Motion Regarding Support, MCL 552.505(1)(d) and MCL 552.519(3)(a)(v)
- FOC 51, Response to Motion Regarding Support, MCL 552.505(1)(d) and MCL 552.519(3)(a)(v)
- FOC 65, Motion Regarding Parenting Time, MCL 552.505(1)(d) and MCL 552.519(3)(a)(v)
- FOC 66, Response to Motion Regarding Parenting Time, MCL 552.505(1)(d) and MCL 552.519(3)(a)(v)
- FOC 67, Order Regarding Parenting Time, MCL 552.505(1)(d) and MCL 552.519(3)(a)(v)
- FOC 87, Motion Regarding Custody, MCL 552.505(1)(d) and MCL 552.519(3)(a)(v)
- FOC 88, Response to Motion Regarding Custody, MCL 552.505(1)(d) and MCL 552.519(3)(a)(v)
- FOC 89, Order Regarding Custody and Parenting Time, MCL 552.505(1)(d) and MCL 552.519(3)(a)(v)

**FORMS SCAO HAS BEEN MANDATED TO CREATE AND APPROVE - USE NOT MANDATORY
(continued)**

PC 117*, Notice to Minor of Rights Regarding Waiver of Parental Consent for an Abortion, MCR 3.615(C), (D)

PC 118*, Request and Order for Court Appointed Attorney /Guardian Ad Litem for Waiver of Parental Consent,
MCR 3.615(C), (D)

PC 119*, Petition for Waiver of Parental Consent for an Abortion, MCR 3.615(C), (D)

PC 121*, Appeal of Order Denying Petition for Waiver of Parental Consent, MCR 3.165(K)

PC 122*, Confidential Information for Proceedings Concerning Waiver of Parental Consent, MCR 3.615(C), (D)

FORMS SCAO HAS CREATED AND APPROVED - USE MANDATORY

The use of these SCAO-Approved forms, without modification, is mandated by court rule or statute. In this particular chart, MC and UC forms are for use in circuit, district, and probate courts; DC forms are for use in district courts, CC forms are for use in circuit courts, and FOC forms are for use in friend of the court offices and circuit courts.

All estate, trust, guardianship, conservatorship, and mental commitment forms, MCL 600.855 and MCL 700.3983

DCI-84, Collecting Money from a Small Claims Judgment, MCL 600.8409(2)

UC 01a and UC 01b, Uniform Law Citation, MCL 257.727c, MCL 600.8705, MCL 600.8805, and MCL 764.9f

MC 11, Subpoena (Order to Appear), MCR 2.506(D)(1)

MC 240, Order for Custody, MCR 6.106(B)(4)

* MC 315, Authorization for Release of Medical Information, MCR 2.314(C)(1)(d) and MCR 2.314(D)(2)(b)

CC 375, Petition for Personal Protection Order (Domestic Relationship), MCL 600.2950b(1)

CC 375M, Petition for Personal Protection Order Against Minor (Domestic Relationship), MCL 600.2950b(1)

CC 376, Personal Protection Order (Domestic Relationship), MCL 600.2950b(2)

CC 376M, Personal Protection Order Against Minor (Domestic Relationship), MCL 600.2950b(2)

CC 377, Petition for Personal Protection Order Against Stalking, MCL 600.2950b(1)

CC 377M, Petition for Personal Protection Order Against Stalking by a Minor, MCL 600.2950b(1)

CC 379, Motion to Modify, Extend, or Terminate Personal Protection Order, MCL 600.2950b(3)

CC 380, Personal Protection Order Against Stalking, MCL 600.2950b(2)

CC 380M, Personal Protection Order Against Stalking by a Minor, MCL 600.2950b(2)

CC 381, Notice of Hearing on Petition for Personal Protection Order, MCL 600.2950b(1)

CC 391, Advice of Rights (Circuit Court Plea), MCR 6.302(B)

FOC 10/52, Uniform Child Support Order, MCR 3.211(D)

FOC 10a/52a, Uniform Child Support Order (No Friend of Court Services), MCR 3.211(D)

FOC 10b, Uniform Spousal Support Order, MCR 3.211(D)

FOC 10c, Uniform Spousal Support Order (No Friend of Court Services), MCR 3.211(D)

FOC 101, Advice of Rights Regarding Use of Friend of the Court Services, MCL 552.505a(8)

Exhibit U

Original - Records custodian
1st copy - Requesting party
2nd copy - Patient

Approved, SCAO

STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT COUNTY PROBATE	AUTHORIZATION FOR RELEASE OF MEDICAL INFORMATION	CASE NO.
--	---	-----------------

Court address _____ Court telephone no. _____

Plaintiff	v	Defendant
<input type="checkbox"/> Probate In the matter of _____		

1. _____
Patient's name Date of birth

2. I authorize _____
Name and address of doctor, hospital, or other custodian of medical information

to release _____
Description of medical information to be released (include dates where appropriate)

to _____
Name and address of party to whom the information is to be given

3. I understand that unless I expressly direct otherwise:

- a) the custodian will make the medical information reasonably available for inspection and copying, or
- b) the custodian will deliver to the requesting party the original information or a true and exact copy of the original information accompanied by the certificate on the reverse side of this authorization.

I understand that medical information may include records, if any, on alcohol and drug abuse, psychology, social work, and information about HIV, AIDS, ARC, and any other communicable disease.

4. This authorization is valid for 60 days and is signed to make medical information regarding me available to the other party(ies) to the lawsuit listed above for their use in any stage of the lawsuit. The medical information covered by this release is relevant because my mental or physical condition is in controversy in the lawsuit.

5. I understand that by signing this authorization there is potential for protected health information to be redisclosed by the recipient.

6. I understand that I may revoke this authorization, except to the extent action has already been taken in reliance upon this authorization, at any time by sending a written revocation to the doctor, hospital, or other custodian of medical information.

Date

Signature

Address

Name (type or print) (if signing as Personal Representative, please state under what authority you are acting)

City, state, zip

Telephone no.

Exhibit V

1 STATE OF MICHIGAN
2 IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE
3 CIVIL DIVISION

4 TAMARA FILAS,

5 Plaintiff,

Case No. 13-000652 NI

6 vs.

7 KEVIN CULPERT and EFFICIENT DESIGN,

8 Defendants.

9 _____ /
10 MOTION

11 BEFORE THE HONORABLE SUSAN D. BORMAN, Circuit Judge,
12 Detroit, Michigan on Friday, August 9, 2013.

13 APPEARANCES:

14 Pro Per Plaintiff: TAMARA FILAS
15 6477 Edgewood
16 Canton, MI 48187
(734) 751-0103

17 For the Defendant: JAMES WRIGHT, P67613
(Efficient Design) Zausmer, Kaufman, August & Caldwell, P.C.
18 31700 Middlebelt Road, Suite 150
Farmington Hills, MI 48334
19 (248) 851-4111

20 For the Defendant: MATTHEW PICCIRILLI, P76550
(Kevin Culpert) 340 E. Big Beaver Road, Suite 250
21 Troy, MI 48083
22 (248) 764-1127

13 AUG 30 11:00
THIRD JUDICIAL
CIRCUIT COURT
OFFICE OF
CLERK OF
COURT REPORTING
CIVIL DIVISION

23
24
25
COPY

TABLE OF CONTENTS

PAGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

WITNESS:

None

EXHIBITS:

None

IDENTIFIED

RECEIVED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Detroit, Michigan
Friday, August 9, 2013
Morning session - 11:03 a.m.

- - -

THE CLERK: Filas.

THE COURT: Okay, this is your motion?

MR. WRIGHT: Yes, for authorizations to be signed.

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.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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.

(Proceeding concluded - 11:05 a.m.)

Exhibit W

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

Tamara Filas

Plaintiff (s)

Case No. 13-000652-NI

-vs-

Kevin Colport & Efficient Design, Inc.

Defendant (s)

13-000652-NI

FILED IN MY OFFICE
WAYNE COUNTY CLERK
5/3/2013 3:38:13 PM
CATHY M. GARRETT

At a session of said Court, held in the Coleman A. Young Municipal Center,
Detroit, Wayne County, Michigan on 5/3/2013

Present: HONORABLE SUSAN D. BORMAN
CIRCUIT COURT JUDGE

Precious Smith

IT IS HEREBY ORDERED:

Daryle Salisbury is hereby discharged
as counsel for Plaintiff.

IT IS FURTHER ORDERED that discovery
is stayed for 30 days or until Plaintiff
retains new counsel.

IT IS FURTHER ORDERED Plaintiff's Motion for
Continuance is denied.

Approved as to form:

T: Tamara Filas's
signature
redacted

/s/ Susan D. Borman

A: [Handwritten signature]
[Handwritten signature]
FOR CATHY M. GARRETT

Honorable Susan D. Borman
Circuit Court Judge

Exhibit X

STATE OF MICHIGAN
WAYNE COUNTY CIRCUIT COURT

TAMARA FILAS,

Plaintiff,

Case No: 13-000652-NI

vs.

Hon. Susan D. Borman 13-000652-NI

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

FILED IN MY OFFICE
WAYNE COUNTY CLERK
4/29/2013 11:53:54 AM
CATHY M. GARRETT

Defendants.

DARYLE SALISBURY P 19852
Former Attorney for Plaintiff
42400 Grand River Avenue
Suite 106
Novi, MI 48375
248/348-6820
darylesalisbury@att.net

JAMES C. WRIGHT P67613
Attorney for Defendant Efficient Design, Inc
31700 Middlebelt Road, Suite 150
Farmington Hills, MI 48334
248/851-4111 fax 248/851-0100
jwright@zkac.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

MOTION TO ENTER SUBSTITUTION OF ATTORNEY ORDER

Daryle Salisbury, who has been dismissed by the plaintiff as her attorney, seeks entry of the Stipulation for Substitution of Attorney by the In Pro Per Plaintiff and entry of the Substitution of Attorney Order, and in support of this Motion states:

1. That on March 8, 2013 Plaintiff terminated/dismissed Daryle Salisbury as her attorney by the following certified letter:

“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.”

2. That in response to the Plaintiff’s dismissal and termination of services letter attorney Daryle Salisbury has prepared and submitted the proposed stipulation and order shown by Attachment “A” to this Motion.

3. That the plaintiff has not yet entered the proposed Stipulation or submitted the proposed Order for Substitution to the Court.
4. That plaintiff's dismissal of Daryle Salisbury as plaintiff's attorney and plaintiff's termination of Daryle Salisbury's services requires the plaintiff, or some attorney, be substituted in this matter as noted in the cases submitted in the attached supporting brief.
5. That this Motion to enter the proposed Order for Substitution of Attorney by In Pro Per Plaintiff be considered and entered by the Court.

Respectfully Submitted By,
/S/DARYLE SALISBURY P19852
Former Attorney for Plaintiff

DATED: April 27, 2013

PROOF OF SERVICE: On this date Daryle Salisbury efiled a copy of this document with the Court Clerk along with ECF service/notification to counsel of record and mailed a copy to the Plaintiff.

STATE OF MICHIGAN
WAYNE COUNTY CIRCUIT COURT

TAMARA FILAS,

Plaintiff,

Case No: 13-000652-NI

vs.

Hon. Susan D. Borman^{13-000652-NI}

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

FILED IN MY OFFICE
WAYNE COUNTY CLERK
4/29/2013 11:53:54 AM
CATHY M. GARRETT

Defendants.

DARYLE SALISBURY P 19852
Former Attorney for Plaintiff
42400 Grand River Avenue
Suite 106
Novi, MI 48375
248/348-6820
darylesalisbury@att.net

JAMES C. WRIGHT P67613
Attorney for Defendant Efficient Design, Inc
31700 Middlebelt Road, Suite 150
Farmington Hills, MI 48334
248/851-4111 fax 248/851-0100
jwright@zkac.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

**BRIEF IN SUPPORT OF
MOTION TO ENTER PROPOSED
SUBSTITUTION OF ATTORNEY ORDER**

Daryle Salisbury, whom plaintiff has dismissed as her attorney and terminated his services, submits the following case citations provide direction to

the parties and the Court regarding the attached Motion to Enter the Proposed Substitution of Attorney Order, to wit: *Mitchell v Dougherty*, 249 Mich App 668, 644 NW2d 391 (2002) at Page 683 notes, when an attorney is retained to represent a client, that representation continues until the attorney is relieved of the obligation by the client or the court. *cf. Stroud v Ward*, 169 Mich App 1, 6; 425 NW2d 490 (1988).

Also as noted at Page 684 of *Mitchell, supra*, “This Court has also held that a client terminated his attorney's representation by sending a letter stating that the attorney did not have authority to act on his behalf. *Hooper v Hill Lewis*, 191 Mich App 312, 315; 477 NW2d 114 (1991). See also *Basic Food Industries, Inc v Travis, Warren, Nayer & Burgoyne*, 60 Mich App 492, 497; 231 NW2d 466 (1975).”

So, as now Michigan Supreme Court Justice Zahra has agreed and adopted in the *Mitchell* case, "*representation continues until the attorney is relieved of the obligation by the client or the court.*" (emphasis supplied).

Since attorney Daryle Salisbury's representation has been terminated and his obligation to represent the client relieved by the client the attorney may not withdraw, but only seek entry of an Order for Substitution of Attorney.

Respectfully Submitted By,
/S/DARYLE SALISBURY P19852
Former Attorney for Plaintiff

DATED: April 27, 2013

PROOF OF SERVICE: On this date Daryle Salisbury efiled a copy of this document with the Court Clerk along with ECF service/notification to counsel of record and mailed a copy to the Plaintiff.