

STATE OF MICHIGAN

SUPREME COURT

TAMARA FILAS,

Plaintiff-Appellant,

Supreme Court No. \_\_\_\_\_

Court of Appeals No: 317972

Circuit Court No: 13-000652-NI

-vs-

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

Defendants-Appellees.

<p>TAMARA FILAS Plaintiff-Appellant 6477 Edgewood Rd. Canton, MI 48187 (734) 751-0103 e-mail redacted</p>	<p>MICHAEL C. O'MALLEY (P59108) Attorney for Defendant Efficient Design Vandever Garzia 840 W. Long Lake Rd., Suite 600 Troy, MI 48098 (248) 312-2940 <a href="mailto:momalley@vgpclaw.com">momalley@vgpclaw.com</a></p>
<p>DREW W. BROADDUS (P64658) Attorney for Defendant Culpert Secret Wardle 2600 Troy Center Drive, P.O. Box 5025 Troy, MI 48007-5025 (616) 272-7966 <a href="mailto:dbroaddus@secrestwardle.com">dbroaddus@secrestwardle.com</a></p>	<p>JAMES C. WRIGHT (P67613) Attorney for Defendant Efficient Design Zausmer, Kaufman, August &amp; Caldwell, P.C. 31700 Middlebelt Rd., Suite 150 Farmington Hills, MI 48334 (248) 851-4111 <a href="mailto:jwright@zkac.com">jwright@zkac.com</a></p>

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**PLAINTIFF-APPELLANT'S APPLICATION FOR  
LEAVE TO APPEAL TO THE MICHIGAN SUPREME COURT  
THE 3-10-15 OPINION OF THE COURT OF APPEALS**

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**\*\*\*ORAL ARGUMENT REQUESTED\*\*\***

Dated: April 21, 2015

## Table of Contents

STATEMENT OF ORDER APPEALED FROM AND RELIEF SOUGHT .....	1
JURISDICTIONAL STATEMENT .....	2
STATEMENT OF QUESTIONS .....	2
GROUND FOR APPEAL .....	3
STATEMENT OF MATERIAL PROCEEDINGS AND FACTS .....	4
ARGUMENTS.....	6
I.. The Court of Appeals erred by making two separate rulings, each using reasons as justification, to uphold the dismissal of PL-AT's entire case Defendants, Kevin Culpert and Efficient Design, Inc., on two different an 11-25-14 Order; and (2) in a 3-10-15 Opinion. Because the upheld the dismissal of the entire case in its 11-25-14 Order to Motion to Affirm, in part, for Issues I-III and VI of PL-AT’s Brief the 3-10-15 Opinion should never have been issued and would have no validity. Once a case is dismissed for specific reasons, the Court cannot the same case again on a later date for different reasons.....	different against both occasions: (1) in COA had already grant DF-AE’s on Appeal, legal dismiss 6
II. .... The COA erred when it issued the 3-10-15 Opinion that (1) misrepresented the true reason for upholding the dismissal of PL-AT's entire case, which, according to their Order of 11-25-14, was the Doctrine of Collateral Estoppel; (2) provided reasons for upholding case dismissal related to Issues IV and V; and (3) makes false statements in regard to facts of the case and to PL-AT's claims in order to justify the clearly erroneous inclusion of Issue I in the 11-25-14 Order, which was about establishing liability of a party prior to providing them with medical records.....	9
A. The COA erred by issuing the 3-10-15 Opinion that concealed the true reason for upholding the dismissal of PL-AT's entire case, by avoiding mention of the fact that DF-AE’s Motion to Affirm, granted in part on 11-25-14, was based on the Doctrine of Collateral Estoppel. ....	10
B. The COA erred by issuing an Opinion on Issue IV, after the entire case was already dismissed by the 11-25-14 Order by its inclusion of Issue III. To support the COA’s decision that the entire case should be dismissed using Issue IV as a basis, the COA distorted PL-AT’s arguments, and avoided mention that the only authorizations that were not provided by PL-AT, were for different types of records than PL-AT was compelled to provide by the granting of Mr. Wright’s 4-19-13 Motion to Compel on 6-21-13. Therefore, a second Motion to Compel <i>was</i> required in order to compel PL-AT to provide new records. ....	12
C. The COA erred by issuing an Opinion on Issue V, after the entire case was already dismissed by the 11-25-14 Order by its inclusion of Issue III. In order to affirm case dismissal based on Issue V, the court neglects to mention that Culpert also filed a Motion to Compel and that PL-AT fulfilled Culpert’s requests within it for interrogatories and medical records. The COA instead falsely states that Culpert repeatedly requested the case to be dismissed and gives the appearance that he did not receive anything from PL-AT.....	18

D. The COA erred by its refusal to acknowledge that there were in fact, three defendants in the case by way of the number of insurance carriers, in an effort to conceal the fact that the actions of one defendant unjustly resulted in dismissal of the entire case against all three defendants/insurance companies. .... 26

E. By omission of important relevant information, and constructing its own meaning from the 6-21-13 transcript, the COA erred by creating a false story in order to justify its inclusion of Issue I of PL-AT's Brief on Appeal with the 11-25-14 Order, which was a liability issue that could not possibly be related to the MEEMIC case by the doctrine of collateral estoppel. .... 31

III. .... The 3-10-15 Opinion is defamatory to PL-AT, contains numerous misrepresentations, omissions, false statements, and a novel argument not supported by fact. It is a fraud against the court and should be stricken from the record and removed from the internet to protect PL-AT from harm. .... 34

A. The 3-10-15 Opinion inaccurately portrays the reasons PL-AT did not provide specific signed authorizations for the release of her records, conceals the true reason for the dismissal of her entire case by the trial court, and uses quotations that PL-AT never said or implied..... 34

B. PL-AT did not place any limitations on what would be discoverable and did not alter authorizations or fail to provide the authorizations she was compelled to provide. .... 38

C. In its 3-10-15 Opinion, the COA presented a novel, unsubstantiated argument, never argued in any pleadings filed by the parties, claiming that the SCAO-mandated form MC 315 that PL-AT executed for Efficient Design’s attorney, Mr. Wright, that had already been mailed to her health care providers, was “not accepted by many medical providers.” ..... 39

D. The COA Opinion did not even mention SCAO-mandated form MC 315, nor its basis in MCR 2.314(C)(1)(d), which were the main bases of the COA’s upholding the dismissal of PL-AT's case with its 11-25-14 Order to grant Culpert’s Motion to Affirm based on collateral estoppel, even though PL-AT’s desire to use and actual use of MC 315 were supposedly the “similar issues” that collaterally estopped PL-AT from litigating them with Culpert and EDI. .... 41

E. In order to justify upholding the sanction of case dismissal, the COA makes false claims that PL-AT has had cases dismissed for refusal to sign authorizations. PL-AT's separate, first-party case filed in Dec. 2012 was dismissed because PL-AT refused to sign unmodified, third-party Records Copy Service forms in the MEEMIC case after the Court refused to accept MC 315 or the health care providers’ medical release authorization forms, not because she refused to sign authorizations. The instant case was dismissed because of the court’s refusal to accept already executed and mailed MC 315 forms. PL-AT's previous combined first- and third-party case was a stipulated dismissal without prejudice to buy time to diagnose her injuries. .... 43

F. Plaintiff's case was dismissed *sua sponte* on 6-24-13 at a “special conference” that Plaintiff was not informed of and was not listed on the R of A on 6-24-13. A 7-day Order was filed by Efficient Design’s attorney, Mr. Wright, that did not include the notice required under MCR 2.602(B)(3). Both the court and DF-AE tricked PL-AT

into believing that by filing objections to the 7-day Order, she could reverse case dismissal, when in reality, she could only correct any inaccuracies to the Order involving the 6-24-13 dismissal. The final dismissal of the PL-AT's case in the trial court was 6-24-14, not 8-9-13, when her Objections to the 7-day Order were heard. The Opinion contains many erroneous statements in regard to the 6-24-14 special conference. .... 47

CONCLUSION AND RELIEF REQUESTED ..... 54

STATEMENT IN SUPPORT OF ORAL ARGUMENT .....55

3-10-15 Opinion of the Michigan Court of Appeals..... A

11-25-14 Order granting Motion to Affirm  
1-27-15 Order denying Motion for Reconsideration of 11-25-14 Order..... B

6-24-13 Order of dismissal from Circuit Court dated 8-9-13 ..... C

Relevant page from Efficient Design’s Request for Production of Documents to Plaintiff dated 2-7-13, but not mailed to PL-AT until 4-30-13..... D

First three pages of Efficient Design’s Request for Production dated 6-21-13, showing additional records requested beyond medical records from health care providers..... E

Signed cover letter verifying authorizations were received by Mr. Wright’s law firm at 11:24 AM on 6-24-13..... F

7-19-12 e-mail from Terry Cochran and attached settlement offer from Mr. Hassouna..... G

6-21-13 Transcript..... H

Pg. 5 of Culpert’s Answer to PL-AT’s MSC Application, in which it is fraudulently stated that Culpert never filed a written Motion to Compel..... I

Letters from health care providers verifying that records were sent to Mr. Hassouna and Mr. Wright ..... J

- Returned and completed pages 1-3 and 5 of 10-27-14 letter from Plaintiff to St. Joseph Mercy Orthopedic Center, verifying records were sent to Mr. Hassouna and Mr. Wright on 7-15-13 and 7-24-13, respectively..... J1
- Accounting of Disclosures from St. Mary Mercy Livonia, verifying records were sent to Mr. Hassouna and Mr. Wright on 7-3-13..... J2

- Returned and completed pages 1-3 and 5 of 10-27-14 letter from Plaintiff to Dr. James Giordano, verifying records were sent to Mr. Hassouna and Mr. Wright on 6-27-14.....J3
- Returned and completed pages 1-3 and 5 of 10-27-14 letter from Plaintiff to Manzo Eye Care, verifying records were sent to Mr. Hassouna and Mr. Wright on 6-25-14.....J4
- Returned and completed pages 1-3 and 5 of 10-27-14 letter from Plaintiff to Associates in Physical Medicine and Rehabilitation, verifying records were sent to Mr. Hassouna and Mr. Wright on 6-28-14.....J5

Register of Actions dated 6-24-13, Register of Actions dated 3-10-15.....K

5-2-13 Transcript.....L

3-17-15 letter and return receipt from PL-AT to Mr. Wright and attached MSC letter dated 3-12-15.....M

Relevant page of Mr. Wright’s 2-5-13 Answer to Complaint against Efficient Design.....N

Two samples of completed MC 315 Forms and cover letters to two different providers for Hassouna, Culpert’s attorney in Circuit Court Case (one hand-delivered on 6-6-13, and another mailed on 6-19-13, prior to the 6-21-13 hearing on Culpert’s written Motion to Compel.....O

8-9-13 Transcript.....P

Modified RDS form from MEEMIC case.....Q

6-24-13 Transcript.....R

6-24-13 FedEx time/date stamped envelope, stamped 3:00 PM.....S

6-24-13 phone and caller ID records, 8-5-13 affidavit of Kathleen Filas.....T

EDI’s 6-25-13 Notice of Submission of Seven-Day Order.....U

pg. 27 of Michael O’Malley’s 3-30-15 Answer to PL-AT’s MSC Application.....V

## **Index of Authorities**

### **Cases**

*Filas v MEEMIC Insurance Co.*

(Unpublished Opinion, COA Case No. 316822).....7, 11, 33, 40, 46

### **Rules**

MCR 2.119(A)(1).....24

MCR 2.314(C)(1)(a).....4, 22, 41

MCR 2.314(C)(1)(d).....4, 6, 13, 22, 36, 41, 42, 55

MCR 2.602(B)(3).....25, 39, 47, 51-53

MCR 7.211(C)(3).....10

MCR 7.301(A)(2).....2

MCR 7.302(B)(3).....3, 4

MCR 7.302(B)(5).....3

MCR 7.302(C)(2).....2

## **STATEMENT OF ORDER APPEALED FROM AND RELIEF SOUGHT**

Plaintiff-Appellant (“PL-AT”) asks this Court to review the 3-10-15 Opinion of the Michigan Court of Appeals and the digital audio recording of the 3-3-15 COA hearing related to the Opinion. A copy of the 3-10-15 Opinion is attached hereto as Exhibit A. The digital audio recording will have to be re-ordered, since PL-AT’s 7-day online link from the COA has expired.

PL-AT requests for leave to appeal the 3-10-15 Opinion because on 3-3-15, the date oral arguments were scheduled by the COA, the COA had already issued an Order granting Defendant’s Motion to Affirm on 11-25-14, dismissing the entire Case No. 317972 based upon the Doctrine of Collateral Estoppel. The COA issued the 11-25-14 Order to dismiss PL-AT’s entire case, including only issues I-III and VI of PL-AT’s Brief on Appeal. Due to the inclusion of item III in the ruling, the entire case dismissal was upheld. Oral arguments that take place after the dismissal of a case can have no validity when the case has already been dismissed. The COA left issues IV and V from PL-AT’s Appeal for oral argument on 3-3-15, then issued the 3-10-15 Opinion primarily in regard to these issues. The 3-10-15 COA Opinion presents different reasons for dismissal than the basis of the 11-25-14 Order, that PL-AT never argued at the 3-3-15 hearing because the 11-25-14 Order dismissing the case would have rendered arguments IV and V moot at the time. However, PL-AT did argue against the dismissal of her case for reasons given by the COA in their 3-10-15 Opinion, in her filings in Case No. 317972 and in her 3-10-15 leave for appeal to the MSC regarding the COA 11-25-14 Order dismissing her case. PL-AT requests leave to appeal the 3-10-15 Opinion so it can be stricken from the record, discounted, rejected, disregarded, amended, end-noted or otherwise remedied by the MSC, as it is not a legally valid opinion since the upholding of the dismissal of PL-AT’s case can only be done one time, for the reasons provided at that time, and COA’s 11-25-14 Order already upheld the dismissal based on the Doctrine of Collateral Estoppel. The 3-10-15 Opinion, presents different

reasons for the dismissal, after the dismissal has already been upheld by the 11-25-14 Order, and therefore, should be stricken from the court record as it should never have been issued in the first place since the upholding of dismissal cannot be done a second time for different reasons. By disposing of the 3-10-15 Opinion, PL-AT can proceed with her Application for Leave to Appeal the 11-25-14 Order, the only valid Order upholding the dismissal of her case (MSC No. 151198).

## **JURISDICTIONAL STATEMENT**

This Court has jurisdiction to consider an Application for Leave to Appeal from a decision or order of the Court of Appeals pursuant to MCR 7.301(A)(2) and MCR 7.302(C)(2). Jurisdiction in the Michigan Supreme Court is appropriate because PL-AT is hereby filing a timely Application for Leave to Appeal to the Michigan Supreme Court on April 21, 2015, from the Court of Appeals' March 10, 2015 Opinion (3-10-15 Opinion, attached to PL-AT's Application as Exhibit A).

## **STATEMENT OF QUESTIONS**

- I. Did the Court of Appeals err by making two separate rulings, each using different reasons as justification, to uphold the dismissal of PL-AT's entire case against both Defendants, Kevin Culpert and Efficient Design, Inc., on two different occasions: (1) in an 11-25-14 Order; and (2) in a 3-10-15 Opinion?**

PL-AT answers: YES

DF-AE has not answered this question.

COA has not answered this question.

- II. Did the COA err by issuing the 3-10-15 Opinion that misrepresented the true reason for upholding the dismissal of PL-AT's entire case, which, according to their Order of 11-25-14, was the Doctrine of Collateral Estoppel? In other words, shouldn't the Opinion have been constrained to a discussion of the reasons for upholding the dismissal with the 11-25-14 Order granting DF-AE's Motion to Affirm?**

PL-AT answers: YES



DF-AE has not answered this question.

COA has not answered this question.

- III. Should the 3-10-15 Opinion be stricken from the record, discounted, rejected, disregarded, amended, end-noted or otherwise remedied by the MSC since upholding case dismissal can only be done once, and was already accomplished by the COA's 11-25-14 Order, and can therefore not be done a second time for different reasons?**

PL-AT answers: YES

DF-AE has not answered this question.

COA has not answered this question.

- IV. Should the 3-10-15 Opinion be stricken from the record, discounted, rejected, disregarded, amended, end-noted or otherwise remedied by the MSC due to the fact it is defamatory to PL-AT, contains numerous misrepresentations, omissions, false statements, and a novel argument not supported by fact?**

PL-AT answers: YES

DF-AE has not answered this question.

COA has not answered this question.

## **GROUNDINGS FOR APPEAL**

Pursuant to MCR 7.302(B)(5), the issuance of the COA's 3-10-15 Opinion, declaring different reasons to uphold case dismissal a second time, after the COA already upheld dismissal of the entire case by its 11-25-14 Order using the doctrine of collateral estoppel as justification, is clearly erroneous and will cause PL-AT material injustice if the 3-10-15 Opinion is not stricken from the court record, and PL-AT therefore requests that the MSC grant her Application for Leave to Appeal.

PL-AT also claims grounds to appeal pursuant to MCR 7.302(B)(3) because PL-AT's case also involves a substantial legal issue in regard to the circuit court's refusal to accept SCAO-mandated form MC 315 for Plaintiffs to provide their records to Defendants, which has been upheld by the Court of Appeals in two of PL-AT's cases, in clearly erroneous Opinions and

Orders, in an effort to conceal the issue from other Plaintiffs who may decide to stand up for their right under MCR 2.314(C)(1)(a) and (d) to provide copies of their records on their own, or to sign SCAO-mandated MC 315 forms, respectively, and not to allow their records to become part of a records copying services' database for sale to other lawyers and insurance companies. By the COA's use of the tactic of making the 11-25-14 Order to uphold the dismissal of the case, and including all the issues in regard to MC 315 within it, thereby not having to actually state or discuss any reasons in the order for its granting of the DF-AE's Motion to Affirm based on collateral estoppel, it concealed the true nature of the case by then issuing a legally invalid Opinion on 3-10-15 that avoids any mention of MC 315 at all.

The Supreme Court hereby has the opportunity to enforce the allowance of the forms approved and/or mandated by the Supreme Court Administrative Office, in this case, Form MC 315. If the MSC truly stands behind the law, it will take this opportunity to correct the injustice being done to this PL-AT and future Plaintiffs who simply want to follow the court rules and protect their rights to privacy of their medical records. This PL-AT should not have to lose both her first- and third-party auto cases for the same reason of wanting to use, and using, respectively, Form MC 315 to provide her medical records to the DF-AEs in her cases. Clearly, there is a big problem at both the circuit court and appellate court level in regard to the acceptance of MC 315 and only the MSC can correct this by granting PL-AT's Application for Leave to Appeal to the MSC.

## **STATEMENT OF MATERIAL PROCEEDINGS AND FACTS**

This is a third-party auto case against two defendants, Kevin Culpert, and his employer, Efficient Design, Inc., ("EDI"), whose name does not appear on the Court of Appeals' case caption. EDI is represented by two different attorneys, representing two different insurance

companies. EDI has a \$1,000,000 policy with each company. Kevin Culpert has a \$20,000 policy with Progressive Insurance Co.

PL-AT fulfilled her obligation to provide medical records to both Defendants by executing and mailing SCAO-mandated Form MC 315 to over 20 health care providers. However, the circuit court dismissed PL-AT's case against both Culpert and EDI, for her refusal to re-do the extensive process using attorney, Mr. Wright's personal forms that contained language above and beyond the requirements of MC 315.

PL-AT also has a first-party case against MEEMIC Insurance Company pending in the MSC, Case No. 150510, in which PL-AT requested to use MC 315, but hadn't actually provided records to the defendant yet, as she had in this case. In an October 14, 2014 Opinion, the COA upheld the circuit court's dismissal of the MEEMIC case, using the novel argument that was never presented in any court filings, that due to a stipulated Protective Order entered in the MEEMIC case, PL-AT could not use MC 315 to provide her records to MEEMIC and had to instead use third-party record copying service forms provided by MEEMIC.

On November 25, 2014, the COA heard and issued an order granting Culpert's 10-17-14 Motion to Affirm in part for Issues I-III, and VI presented in PL-AT's 12-20-14 COA Brief on Appeal. Culpert's 10-17-14 Motion to Affirm argued that the Doctrine of Collateral Estoppel barred the PL-AT from having the same claims against Culpert and EDI, since the COA had ruled in the MEEMIC case that she could not use MC 315 to provide her medical records due to the novel argument never preserved by DF-AEs, that a Protective Order entered in the case prevented her from using MC 315. There was no protective order entered in the instant case.

The COA scheduled a hearing for oral arguments on March 3, 2015, in regard only to items IV and V from PL-AT's 12-20-13 Brief on Appeal. However, by the COA already having

granted Culpert's Motion to Affirm on 11-25-14 with respect to items I-III, and VI, the COA affirmed that the circuit court did not err when it dismissed PL-AT's entire case, because this was the pertinent question presented in item III of PL-AT's Brief on Appeal. Anything PL-AT would have argued at the 3-3-15 hearing in regard to items IV and V would have been moot, since there only needs to be one reason to dismiss a case. The COA already upheld the dismissal of her case based upon the Doctrine of Collateral Estoppel by inclusion of Item III of PL-AT's 12-20-13 Brief in its 11-25-14 Order.

On March 10, 2015, the COA issued an Opinion, upholding the dismissal of PL-AT's case for different reasons, making no mention of the true reason for the dismissal of the case---the doctrine of collateral estoppel, and no mention of the true content of the case---the issues surrounding PL-AT's use of SCAO-mandated form MC 315 and the court rule providing for its use, MCR 2.314(C)(1)(d).

## **ARGUMENTS**

- I. The Court of Appeals erred by making two separate rulings, each using different reasons as justification, to uphold the dismissal of PL-AT's entire case against both Defendants, Kevin Culpert and Efficient Design, Inc., on two different occasions: (1) in an 11-25-14 Order; and (2) in a 3-10-15 Opinion. Because the COA had already upheld the dismissal of the entire case in its 11-25-14 Order to grant DF-AE's Motion to Affirm, in part, for Issues I-III and VI of PL-AT's Brief on Appeal, the 3-10-15 Opinion should never have been issued and would have no legal validity. Once a case is dismissed for specific reasons, the Court cannot dismiss the same case again on a later date for different reasons.**

A court can only make the decision to dismiss a case (or in this situation, to "uphold the dismissal" of a case in an order made by a lower court) one time. Once the action of upholding the dismissal has been completed, in the form of an Order or Opinion, it cannot be done a second time for different reasons, which is exactly what has happened in the instant case. Generally, when a case such as this is before the Court of Appeals after having been dismissed for specific

reasons by the circuit court, an Opinion is issued with a discussion of whether or not the COA affirms specific actions of the circuit court, and thereby whether or not the COA upholds the dismissal of the case by the circuit court. In the instant case, an Order to uphold the dismissal was entered, prior to holding an oral arguments hearing, on 11-25-14. If an Opinion was to be issued at all after the 11-25-14 Order was entered, the Opinion should have only discussed the reasons for upholding the dismissal that pertained to the 11-25-14 Order. Instead, the COA issued a 3-10-15 Opinion that primarily focused on the other issues of the case, IV and V, which were moot at that point, since the entire case was already dismissed by the 11-25-14 Order. The COA cannot issue an Opinion with completely new reasons to uphold dismissal of the case that were not part of the original 11-25-14 Order that upheld the dismissal.

The COA's 11-25-14 Order granting DF-AE Culpert's 10-17-14 Motion to Affirm, that upheld dismissal of the entire case, was based upon the Doctrine of Collateral Estoppel and claims that the *Filas v MEEMIC* ruling in COA Case No. 316822 prevented PL-AT from litigating the same issues against Culpert and Efficient Design Inc. The 11-25-14 Order of the COA granted the Motion to Affirm in part, in regard to Items I-III and VI of PL-AT's 12-20-13 Brief on Appeal to the COA. Issues IV and V were scheduled to be heard on 3-3-15, but had already been rendered moot by the 11-25-14 Order granting DF-AE's Motion to Affirm for Item 3, which upheld the circuit court's dismissal of PL-AT's entire case. The COA panel of judges at the 3-3-15 hearing did not question PL-AT's assertions that the case was already dismissed via the 11-25-14 Order and that oral arguments would therefore be moot. Thereby, no arguments were presented by any of the parties in regard to issues IV and V at the 3-3-15 hearing on oral arguments.

At the 3-3-15 hearing, Judge Gleicher told PL-AT that the 3-3-15 COA panel had nothing to do with the 11-25-14 Order, but that the 3-3-15 panel was bound by the 11-25-14 Order. PL-AT explained that Judge Fort Hood was on the 11-25-14 panel, but Judge Fort Hood claimed she didn't remember. PL-AT believed her only recourse would have been to file for leave to appeal the 11-25-14 dismissal to the MSC, and explained this to the 3-3-15 panel. Judge Gleicher reminded PL-AT the clock was ticking to file for leave to appeal the 11-25-14 dismissal. Judge Gleicher also alerted EDI attorney, Mr. O'Malley not to ask any questions when she directed the following leading, tag question to him: "You don't have any questions, do you?"

Only one reason is needed to dismiss a case, the COA already accepted the DF-AE's argument of the application of the Doctrine of Collateral Estoppel when it granted the DF-AE's Motion to Affirm on 11-25-14, and chose to specifically include Item III from PL-AT's 12-20-13 Brief on Appeal, which would have upheld the dismissal of the entire case. Item III states:

*Did the circuit court err when it dismissed Plaintiff-Appellant's case based on her refusal to complete specific authorization forms provided by the Defendant-Appellee, when there were still other means available for the Defendant-Appellee to obtain the medical and employment records they sought (i.e. subpoena to health care provider's custodian of records or use the mandated SCAO form MC 315, obtaining the employment records directly from her employer since Plaintiff-Appellant is a public school teacher whose employment records are publicly available)?*

Since the issue presented in Item III was disposed of by the 11-25-14, and it did not refer to a specific defendant having been dismissed, (i.e. Issue V pertained to PL-AT's argument that Culpert and the other attorney for a different insurance company should not have been dismissed along with the insurance company Mr. Wright was representing), the 11-25-14 Order therefore upheld dismissal of the entire case. Therefore, the COA erroneously issued rulings on issues IV and V in the 3-10-15 Opinion, because the case was already dismissed on 11-25-14 by the inclusion of Issue III. PL-AT could not receive a legitimate hearing on oral arguments for Issues

IV and V since the COA could no longer consider them on 3-3-15. The COA cannot come up with a different reason to dismiss the same case at a later date. PL-AT has filed for Leave to Appeal to the MSC in regard to the 11-25-14 Order (MSC Case No. 151198). Even if the COA had ruled in PL-AT's favor on Issues IV and V in the 3-10-15 Opinion, the Opinion could still not cancel out or overturn their 11-25-14 Order that already dismissed the case in its entirety due to its inclusion of Issue III. Thereby, for the COA to willfully issue an Opinion that has no legal validity, is an unnecessary act, with questionable intent.

**II. The COA erred when it issued the 3-10-15 Opinion that (1) misrepresented the true reason for upholding the dismissal of PL-AT's entire case, which, according to their Order of 11-25-14, was the Doctrine of Collateral Estoppel; (2) provided reasons for upholding case dismissal related to Issues IV and V; and (3) makes false statements in regard to facts of the case and to PL-AT's claims in order to justify the clearly erroneous inclusion of Issue I in the 11-25-14 Order, which was about establishing liability of a party prior to providing them with medical records.**

Instead of writing an honest Opinion that included only the relevant issues, I-III, and VI, as they were the only issues included in the 11-25-14 Order that upheld the dismissal of the entire case, an Order of dismissal that Judge Gleicher claimed "evaded" the 3-3-15 COA panel of Judges, the COA instead provided an inaccurate and falsified history of events so that it could still affirm the trial court's dismissal of PL-AT's entire case based on Issues IV and V, and presented a distorted history in regard to item I to justify its inclusion with the other items that were deemed to be similar to the MEEMIC case for which the Doctrine of Collateral Estoppel was being applied, Items II, III, and VI.

As explained in item I above, a case cannot be dismissed at a later date (3-10-15) for different reasons after it has already been dismissed on an earlier date (11-25-14). Issues IV and V should therefore not have even been part of the 3-10-15 Opinion since the 11-25-14 Order to uphold the dismissal was only based on issues I-III, and VI. To coincide with the truth, the

Opinion issued 3-10-15 should have addressed the situation of the oral arguments being moot on issues IV and V, instead of providing a discussion justifying upholding the dismissal of the case based on issues IV and V. However, the Opinion did the opposite---it concealed that the case was already dismissed on 11-25-14, and with the exception of Item I, completely avoided a discussion of issues II, III, and VI, in its 3-10-15 Opinion (The 11-25-14 Order included Issues I-III, and VI. Therefore, a discussion of these four issues should have been contained in the 3-10-15 Opinion, but only Issues I, IV and V were discussed in the Opinion, avoiding II, III, and VI).

**A. The COA erred by issuing the 3-10-15 Opinion that concealed the true reason for upholding the dismissal of PL-AT's entire case, by avoiding mention of the fact that DF-AE's Motion to Affirm, granted in part on 11-25-14, was based on the Doctrine of Collateral Estoppel.**

PL-AT already filed an Application for Leave to Appeal to the MSC (Case No. 151198) in regard to the 11-25-14 Order that upheld the dismissal of her case in its entirety, providing her objections to the application of the Doctrine of Collateral Estoppel to her case. The objections presented in this section are in regard to the subject matter of the 3-10-15 Opinion.

PL-AT would expect the COA's Opinion to be accurate, and to mention the fact that her case was dismissed on 11-25-14 due to the doctrine of collateral estoppel. However, the words, "collateral estoppel," do not even appear within the 3-10-15 Opinion! As the Doctrine of Collateral Estoppel is a common doctrine of law, it can be argued that the COA knew this was an invalid reason to uphold the dismissal of PL-AT's case. The COA therefore concealed the fact that the case was dismissed for this reason by never even mentioning the words "collateral estoppel," with the only reference to the granting of DF-AE's Motion being the following statement on pg. 3 ¶3 of the 3-10-15 Opinion, "*Culpert filed a motion to affirm pursuant to MCR 7.211(C)(3), arguing that many of the issues raised by plaintiff in this appeal were raised and rejected by this Court in plaintiff's appeal related to the dismissal of her first-party insurance*



case. This Court granted the motion in part, holding that this appeal could proceed only with respect to Issue IV, regarding the motion to compel, and Issue V, regarding the dismissal of the case against both defendants.” This statement doesn’t even mention that the “first-party insurance case” is PL-AT's first-party PIP case against MEEMIC Insurance Company (Docket No. 316822), which is a completely different insurance company, unrelated to the companies by which Culpert and Efficient Design are insured, perhaps to give the appearance that applying the doctrine of collateral estoppel may have been legitimate (if the insurance companies involved had been the same). Culpert’s Motion to Affirm, that was granted in part on 11-25-14 and resulted in dismissal of PL-AT's case due to the inclusion of Item III, argued that the Doctrine of Collateral Estoppel barred PL-AT from making the same or similar claims against Culpert and Efficient Design, as she had in *Filas v MEEMIC Ins. Co.*, Docket No. 316822.

By hiding this absurd ruling based on the doctrine of collateral estoppel, that clearly was inapplicable (as explained in PL-AT’s 3-10-15 Application for Leave to Appeal to the MSC the 11-25-14 Order), within the 11-25-14 Order that required no discussion, instead of an Opinion which requires often lengthy discussions of the issues of the case, the COA has hidden the true reason for upholding the dismissal of PL-AT's case, which was the doctrine of collateral estoppel. By the inclusion of Issue III from PL-AT's 12-20-13 Brief on Appeal, the 11-25-14 Order upheld the dismissal of the entire case. DF-AE's Motion to Affirm, granted by the 11-25-14 Order is not readily available on the internet, like the 3-10-15 Opinion is. Therefore, by not mentioning “collateral estoppel” in the Opinion, it is only by inspection of actual court records maintained at the courthouse, that anyone could determine the true reason that the COA upheld the dismissal of PL-AT's case. The COA should not be able to make up new reasons and include them in an Opinion if they already dismissed the case on 11-25-14 due to the doctrine of

collateral estoppel. Although PL-AT does not believe an Opinion should have been issued at all (as explained in Item I above), if one is to be issued, it should at least contain the true reasons for the dismissal of PL-AT's case.

With the exception of Issue I, discussed in detail in IIE below, the COA has completely avoided mention of any of the issues that were included with the 11-25-14 Order to grant Culpert's 10-17-14 Motion to Affirm, which were Issues I-III, and VI. The Opinion should have been about the true reasons for upholding the dismissal of the entire case, and therefore it should have contained a discussion about how Issues I-III, and VI were similar to the MEEMIC case for which the COA upheld dismissal, and why the COA was able to legitimately apply the Doctrine of Collateral Estoppel. The Opinion completely avoided said discussion and instead focused on the issues it had already deemed moot due to the entry of its 11-25-14 Order, Issues IV and V.

**B. The COA erred by issuing an Opinion on Issue IV, after the entire case was already dismissed by the 11-25-14 Order by its inclusion of Issue III. To support the COA's decision that the entire case should be dismissed using Issue IV as a basis, the COA distorted PL-AT's arguments, and avoided mention that the only authorizations that were not provided by PL-AT, were for different types of records than PL-AT was compelled to provide by the granting of Mr. Wright's 4-19-13 Motion to Compel on 6-21-13. Therefore, a second Motion to Compel was required in order to compel PL-AT to provide new records.**

After having made the one and only statement in regard to Culpert's Motion to Affirm, appearing on on pg. 3 ¶3 of the 3-10-15 Opinion (quoted above in Argument IIA), that avoids mention of the Motion's basis in the Doctrine of Collateral Estoppel, rather than provide the true facts of the hearing on oral arguments on 3-3-15, the COA's 3-10-15 Opinion completely disregards the fact that at the 3-3-15 hearing, PL-AT had explained to the panel that any arguments presented for Issues IV and V would be moot, since her case was already dismissed in its entirety by the 11-25-14 Order, and therefore, none of the parties presented any oral

arguments in regard to Issues IV or V at the 3-3-15 hearing. Pg. 3 ¶3 of the 3-10-15 Opinion states, “Accordingly, we first turn to Issue IV,” and the Opinion discusses reasons why the case should have been dismissed based upon Issue IV, even though Issue IV was not included in the 11-25-14 Order that already dismissed the case based on collateral estoppel, and should not appear in the Opinion at all since the COA affirmed it was a moot point. The case could not be dismissed a second time for a different reason, so it didn’t matter what the COA’s Opinion on Issue IV was because it could no longer change the outcome of the 11-25-14 Order upholding the

**Issue IV of PL-AT's Brief on Appeal posed the following question:**

*Did the circuit court err when it ordered Plaintiff-Appellant to release records beyond those requested in the Defendant’s Motion to Compel, without requiring the Defendant to file a new Motion to Compel to include the new records requests?*

Since PL-AT's entire case was dismissed due to PL-AT’s refusal to provide records not requested in the original Motion to Compel, a ruling in PL-AT's favor in regard to item IV of PL-AT's Brief on Appeal had the potential to reverse the dismissal of PL-AT's case against both EDI and Culpert, if the case had not already been dismissed by the 11-25-14 Order of the COA. The COA knew that it could not reverse its 11-25-14 Order that upheld the dismissal of the entire case. Therefore, in order to justify its Opinion in regard to issue IV, that the trial court did not abuse its discretion in not requiring another motion to be filed and dismissing the case because PL-AT did not supply authorizations for the additional records, the COA avoids mentioning the fact that records in dispute were not medical records from her health care providers related to her injuries, and were not records required to be released under MCR 2.314(C)(1)(d) with the use of the associated SCAO-mandated form MC 315, as PL-AT had argued previously on pg. 27-29 of her 12-20-14 Brief on Appeal. Plaintiff-Appellant preserved this issue in her 8-6-13 Plaintiff’s

Reply To Plaintiff's Objection To Defendant Efficient Design Inc.'s Proposed Order Of Dismissal Without Prejudice, pg. 5, 9-10, items #11, 20-23.

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-Appellant to sign an enclosed authorization form regarding Medicare/Medicaid benefits. He did not provide or request that any specific authorization form be used to provide him with copies of Plaintiff-Appellant's medical records (Exhibit D, relevant page from Efficient Design's Request for Production of Documents dated 2-7-13, but not mailed to PL-AT until 4-30-13).

PL-AT provided only medical release authorizations for Efficient Design to obtain her medical records, because that is what Judge Borman ordered her to provide. Judge Borman did not order PL-AT to provide copies of medical records as were actually requested by Mr. Wright in his Request for Production of Documents (Exhibit D). In addition to authorization forms for her medical providers, the FedEx packet mailed on June 21, 2013 to Plaintiff, also included additional authorizations for Plaintiff-Appellant 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 (Exhibit E, first three pages of Efficient Design's Request for Production dated 6-21-13 showing additional records requested beyond medical records from health care providers).

None of these additional records were requested by Efficient Design in the original Interrogatories or Requests for Production of Documents, and therefore could not be compelled by granting Mr. Wright's 4-30-13 Motion to Compel. Different, unrelated documents cannot be considered to have been included with Mr. Wright's original 4-30-13 motion to compel, when

they were not listed in the 4-30-13 requests for production of documents that was dated 2-7-13. The Plaintiff-Appellant must be provided with the new requests, permitted time to respond (28 days), and then a new motion to compel would be filed if she did not provide the documents. Plaintiff-Appellant could then object to the production of said documents, if necessary. PL-AT was not simply provided with medical authorization forms to sign, as the Court had ordered Mr. Wright to provide at the 6-21-13 hearing. PL-AT was provided with a new “Request for Production of Documents” that requested different documents than the 4-30-13 Motion to Compel contained, and should have been able to object to their production. Mr. Wright lied when he told Judge Borman during the special conference on 6-24-13, that PL-AT had provided authorizations for only half of the records she was ordered to provide. As explained, the records she was ordered to provide by Judge Borman were only medical authorizations, in accordance with the 4-30-13 Motion to Compel, and PL-AT fulfilled that obligation by providing copies of completed, signed SCAO-mandated MC 315 authorization forms releasing her medical records to Defendant Efficient Design’s attorney, Mr. Wright, and copies of the certificates of mailing proving the authorizations had been mailed to her health care providers (Exhibit C, signed cover letter verifying authorizations were received by Mr. Wright’s law firm at 11:24 AM on 6-24-13; Exhibit J, Letters from health care providers verifying that records were sent to Mr. Hassouna and Mr. Wright).

Pg. 3 ¶1 of the Opinion states, “*plaintiff did not provide numerous other authorizations that had been requested and to date, still had not provided the authorizations.*” This argument has no merit and does not belong in this Opinion because it is in regard to Issue IV. The “other authorizations” were in contention because they were not the medical authorizations that Judge Borman ordered PL-AT to provide on 6-21-13. This issue was already contained in the 12-20-13

COA Appeal as issue IV, in which PL-AT claimed Mr. Wright would need to file a new motion to compel the newly requested authorizations. Certainly, the PL-AT would not provide the authorizations after her case was dismissed and she was awaiting the COA's decision in regard to this issue---that would defeat the purpose of including the issue in the appeal to the COA. The COA notes that "*plaintiff does not even claim on appeal that she would, in fact, have signed record release authorizations if they were the subject of a second motion to compel.*" Clearly, since these additional authorizations, requested after the original Motion to Compel was granted, were the subject matter of Issue IV, and part of the basis of PL-AT's Appeal, PL-AT's position was that her case should not have been dismissed due to her refusal to sign authorizations for the newly requested, different records, and that a Motion to Compel her to sign them should have been filed and granted before her case was dismissed. Of course PL-AT wouldn't sign the authorizations, even if they were the *subject* of a second motion to compel. PL-AT did not want to sign them until she was *compelled* by the court to do so and a second motion to compel was *granted*. These meritless arguments appear in the Opinion for no valid reason except to give the appearance that PL-AT is disagreeable and uncooperative. PL-AT was only trying to protect her rights to disclose only information required by law to be disclosed in a third-party auto case.

Pg. 3, ¶4 of the Opinion states, "*Plaintiff argues that the trial court erred when it ordered her to sign records release authorizations provided to her by Efficient Design after the June 21, 2013 hearing on its motion to compel discovery without first requiring Efficient Design to file a second motion to compel discovery. We disagree.*" This was not PL-AT's argument. PL-AT did provide records release authorization to disclose all of her medical records to Mr. Wright. The contested authorizations were for different records. By stating that PL-AT was ordered to sign authorizations after the 6-21-13 hearing, the COA gives the appearance that the Motion to

Compel records was first granted on 6-21-13, and *then* PL-AT was asked to sign authorizations, and that PL-AT was arguing that a new motion to compel would have to be filed to request said authorizations. That is not what happened at all. PL-AT was ordered to sign authorizations for her medical providers at the 6-21-13 hearing, not after it. However, Mr. Wright did not have any authorization forms with him that day. When PL-AT received the authorization forms from Mr. Wright, she discovered the other additional authorization forms for non-medical records, to which she was contesting another motion was required to compel her to sign those authorization forms, as presented in Issue IV of PL-AT's 12-20-13 Brief on Appeal. Let it be clear these were new records being requested, and never mentioned in any way in the original 4-30-13 Motion to Compel, which is why a new motion to compel would have been required.

On pg. 4, ¶2 of the 3-10-15 Opinion, the COA concludes that, “*Under the circumstances of this case, the trial court's decision to compel plaintiff to comply with the discovery requested, i.e. to sign record release authorization, without requiring Efficient Design to file a second motion to compel discovery did not constitute an abuse of discretion.*” Again, the only authorizations PL-AT did not provide were for records not requested in the original Motion to Compel. The COA's statement give the appearance that the PL-AT was arguing that a second motion to compel needed to be filed in order to request any type of authorizations at all, and that is not PL-AT's argument in Issue IV. Although PL-AT did note that EDI's Motion did not request authorizations, per se---It requested medical records. Still, PL-AT was ordered on 6-21-13 to provide signed authorizations for medical records, and she fulfilled that obligation. The other records described on pg. 14 of this Brief, and listed in Exhibit E, were never ordered by the court to be provided, nor was PL-AT ordered to provide authorization forms for said records. These records were part of a new Request for Production of Documents mailed from Mr. Wright's

office on 6-21-13. The COA states on pg. 3 ¶2 of the 5 of the Opinion, “*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,*” and on pg. 4, ¶2 states, “*Again, defendants are entitled to ‘liberal discovery of any matter, not privileged, that is relevant’ to defending against and disproving plaintiff’s numerous allegations made in support of her request for a substantial judgment in her favor.*” Not only did EDI not include a request for these additional records in their first request for production of documents and subsequent motion to compel these documents, EDI provided no reasons justifying why these additional non-medical records were relevant to disproving PL-AT's injuries and claims, and therefore PL-AT’s case should not have been dismissed for her refusal to provide authorizations for said records.

Only by falsifying the history and altering PL-AT's claims, is the COA able to present an argument justifying the dismissal of PL-AT's entire case under Issue IV. Most importantly, no opinion on Issue IV should have been issued by the COA since the case was already dismissed on 11-25-14 and PL-AT was denied a legitimate oral argument hearing on this issue.

**C. The COA erred by issuing an Opinion on Issue V, after the entire case was already dismissed by the 11-25-14 Order by its inclusion of Issue III. In order to affirm case dismissal based on Issue V, the court neglects to mention that Culpert also filed a Motion to Compel and that PL-AT fulfilled Culpert’s requests within it for interrogatories and medical records. The COA instead falsely states that Culpert repeatedly requested the case to be dismissed and gives the appearance that he did not receive anything from PL-AT.**

**Issue 5 of PL-AT's Brief on Appeal posed the following question:**

***Did the circuit court err when it dismissed Plaintiff-Appellant’s entire case against both Defendant-Appellees, Kevin Culpert and Efficient Design, Inc., when only Defendant-Appellee Efficient Design motioned for the case to be dismissed on the basis that Plaintiff-Appellant used SCAO-approved Form MC 315 to provide her medical records, instead of his personal authorization forms?***



PL-AT had provided all requested discovery materials to Culpert's attorney on 6-21-13. Still, PL-AT's entire case against both Culpert and EDI was dismissed due to PL-AT's refusal to provide records not requested in EDI's original Motion to Compel (which was contested by PL-AT in Issue IV of her Brief on Appeal as explained in Argument IIB above). A ruling by the COA in PL-AT's favor in regard to item V of PL-AT's Brief on Appeal would have reversed the dismissal of PL-AT's case against Culpert, and possibly the other insurance company representing Efficient Design, if the case had not already been dismissed by the 11-25-14 Order of the COA.

Pg. 4, ¶ 3 states, “Next, in Issue V, plaintiff argues that the trial court erred when it dismissed her case against both defendants because only one of the attorneys for Efficient Design requested dismissal as a discovery sanction. We disagree.” PL-AT disagrees with the COA's statement that anyone “requested dismissal.” It should be noted that PL-AT inadvertently misstated the facts when she stated that EDI “motioned for the case to be dismissed” in Item 5 above as presented in her 12-20-14 Brief on Appeal. To clarify, no Motion to Dismiss was ever filed by Mr. Wright. PL-AT's case was dismissed *sua sponte* by the lower court at a special conference held on 6-24-13 without notice to PL-AT, based on EDI's attorneys' word (no hard evidence) that PL-AT only provided half of the authorizations, which was a lie. Mr. Wright never actually requested any dismissal of the case. After Mr. Wright's false testimony that he only received half of what he asked for and that the authorizations were altered, the Court stated on pg. 4 of the 6-24-13 Transcript (Ex. R), “I know. I am going to dismiss the case without prejudice.” Nowhere in the transcript does Mr. Wright actually “request” dismissal of the case. See argument IIIF below for details.

The 3-10-15 Opinion presents many falsehoods and alterations of the true history of events in this case, to give the appearance that Culpert's attorney did not receive any discovery materials at all from PL-AT, when he actually received everything he requested in his 4-19-13 Motion to Compel, on 6-21-13 before the hearing even commenced. The Opinion therefore gives the appearance that Culpert was also justified in requesting dismissal of the case by making statements that Culpert *requested* signed authorizations from PL-AT, but leaving out that these authorizations were actually *provided* to him.

On pg. 5 of the 3-10-15 Opinion, it is stated, "*Culpert's attorney repeatedly requested that the trial court dismiss plaintiff's case 'for her continued refusal to engage in meaningful discovery' and, as plaintiff notes in her response to Culpert's motion to compel discovery, Culpert also requested signed record release authorizations be provided by plaintiff. Further, at oral argument conducted on May 2, 2013, Culpert's attorney requested signed authorizations from Plaintiff.*" First, there is no evidence that Culpert's attorney, Mr. Hassouna, repeatedly made requests for case dismissal. In fact, way back on July 19, **2012**, just before the original no-fault and third-party case, which did not include Efficient Design as a Defendant, was dismissed on July 20, 2012 without prejudice to buy PL-AT more discovery time, Mr. Hassouna was ready to settle the tort case against Kevin Culpert for Progressive's policy limit of \$20,000. On July 19, 2012, Mr. Hassouna had not required PL-AT to sign any authorizations to disclose medical records to him as a condition for the settlement. Therefore, it would be unjust to dismiss PL-AT's case/claims against Kevin Culpert represented by Progressive's attorney Mr. Hassouna, to be dismissed for lack of providing specific authorization forms to Mr. Wright, since Mr. Hassouna didn't need any additional medical information on July 19, 2012 to settle the case, he accepted the copies of MC 315 provided to him on June 21, 2013 by the PL-AT at the Court, and

accepted records sent to him by the health care providers' execution of said forms (Exhibit G, 7-19-12 e-mail from Terry Cochran and attached settlement offer from Mr. Hassouna; Exhibit J, Letters from health care providers verifying that records were sent to Hassouna and Wright).

Second, it is perplexing why the Court would refer to *PL-AT's Answer* to Culpert's Motion to Compel to explain that authorizations were requested, instead of referring to Culpert's Motion itself, except perhaps to avoid mention that these were not just *any* "record release authorizations" as they are portrayed by the COA's Opinion---they were specifically "medical authorizations" that corresponded to "providers listed in Plaintiff's answers to interrogatories." Third, PL-AT did more than "note" that Culpert's attorney requested medical authorizations---she "quoted" word for word exactly what Culpert requested in his 4-19-13 Motion to Compel.

Page 1-2 of PL-AT's 6-6-13 Answer to Culpert's Motion to Compel stated the following:

*"Per his Motion to Compel, Ahmed Hassouna, attorney for Progressive Insurance Co. defending a third party tort claim against Defendant Kevin Culpert, the responsible party in an auto accident 1-15-10, Mr. Hassouna asks the court to compel Plaintiff to provide "signed, notarized, and full and complete answers to Interrogatories and fully executed medical authorizations for all providers listed in plaintiff's answers to interrogatories within (7) days from the date of hearing of this motion."*

*Plaintiff agrees to provide signed, notarized, and full and complete answers to interrogatories and provide fully executed medical authorizations for all providers as listed in Plaintiff's answers to those interrogatories, as requested in the last paragraph of Mr. Hassouna's Brief in Support of Motion to Compel Answers to Interrogatories and Production of Documents. Plaintiff received the interrogatories from Mr. Hassouna on June 5, 2013. Plaintiff prays the Court will adjourn the motion to compel to give her additional time to complete and provide the above, due to the late receipt of these requested interrogatories from Mr. Hassouna in an editable format, and the physical limitations Plaintiff has that directly affect the amount of time she can reasonably be expected to spend on the computer."*

Pg. 7 of PL-AT's 6-6-13 Answer to Culpert's Motion to Compel stated the following:

*"WHEREFORE, the Plaintiff prays that this Honorable Court will adjourn Defendant's hearing on the Motion to Compel Answers to Interrogatories and Production of Documents, for fourteen (14) days, giving Plaintiff the opportunity to provide the completed, notarized, interrogatories and fully executed medical authorizations for all providers listed in the competed interrogatories."*

Clearly, in her 6-6-13 Answer to Culpert's Motion to Compel, PL-AT was simply asking for more time to complete the interrogatories and medical authorizations. She was not refusing to sign them, as the COA Opinion implies. Fourth, it is nonsensical for the COA to state, "*Further, at oral argument conducted on May 2, 2013, Culpert's attorney requested signed authorizations from Plaintiff.*" Prior to this sentence was a discussion about PL-AT's Answer to Culpert's Motion to Compel, which was not filed until June 6, 2013. Therefore, one can't refer to the May 2, 2013 hearing with the word "further," as the COA has. By leaving out the dates, the COA gives the impression that requests on May 2, 2013 were somehow additional requests, when in fact, Culpert's Motion to Compel was filed 4-19-13, and the Court put a stay on the case on May 2, 2013, after having heard PL-AT's Motion for Continuance<sup>1</sup>, to provide PL-AT time to find a new attorney, and that was the reason PL-AT did not have to provide the authorizations on 5-2-13. PL-AT had not refused to provide the authorizations on 5-2-13 (Exhibit L, 5-2-13 Transcript).

On pg. 5 of the 3-10-15 Opinion, the paragraph continues, "*At oral argument conducted on June 21, 2013, Culpert's attorney again requested signed authorizations from plaintiff.*" According to the 6-21-13 transcript, pg. 9, Mr. Hassouna stated, "*Your Honor, I would simply ask for the same relief before you do Efficient Design for Mr. Culpert.*" PL-AT then stated, "*I have his though.*" By the word "his," PL-AT was referring to the completed interrogatories and copies of signed, executed copies of SCAO-mandated MC 315 forms that had already been

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<sup>1</sup> On pg. 1, ¶2, the Opinion states, "*In March 2013, plaintiff terminated her attorney and filed a "motion for continuance," requesting the trial court to grant her extensions of time to complete discovery requested by defendants and to extend the scheduling order dates.*" The Opinion leaves out the most important reason for PL-AT's Motion for Continuance, which was for her to have time to hire another attorney to handle her case, since Mr. Salisbury breached his hiring agreement by not standing up for PL-AT's right to either submit the copies of medical records she had obtained from her providers, as permitted under MCR 2.314(C)(1)(a), or to use MC 315 as the authorization form to be used to disclose her medical records to Defendants, as mandated under MCR 2.314(C)(1)(d).

mailed to all of the health care providers listed in the interrogatories, as Culpert's Motion to Compel had requested. The Court then stated, "*Excuse me, what same relief?*" Mr. Hassouna stated, "*I would like authorizations as well and I would like the answers to the interrogatories.*" The transcript then continues with a discussion about who the parties were and the liability of Efficient Design. PL-AT explains at the bottom of pg. 9 of the 6-21-13 transcript, "*But I have everything for Mr. Hassouna*" and is then cut off by the court. Again, by the word "everything," PL-AT is referring to the completed interrogatories and copies of medical record authorizations with mailing receipts for Mr. Hassouna that she brought to the court with her and hand-delivered to him prior to the hearing. The transcript indicates that the issue of providing Hassouna with the authorizations and answers to the interrogatories was never revisited during the hearing (Exhibit H, 6-21-13 transcript).

PL-AT provided Mr. Hassouna with the completed interrogatories and the executed and mailed medical authorizations. Mr. Hassouna received records from these authorizations as can be verified by letters sent to the healthcare providers by PL-AT. It is a fraud against the court for DF-AE to claim that PL-AT did not provide the requested discovery materials. PL-AT's evidence provided clearly indicates both defendants, Culpert and Efficient Design, received completed and mailed copies of MC 315 for PL-AT's healthcare providers, and received medical records from the execution of some of these forms by the providers (Exhibit J, Letters from health care providers verifying that records were sent to Mr. Hassouna and Mr. Wright). Like Mr. Hassouna, the trial court attorney, the COA attorney, Mr. Broaddus, is also dishonest. He recently told egregious lies in Culpert's 3-23-15 Answer to PL-AT's 3-10-15 Application for Leave to Appeal to the MSC in regard to the COA's 11-25-14 Order that dismissed her case. In this Answer on pg. 5, Mr. Broaddus twists around PL-AT's argument for Issue V, stating that

issue V regarded “*whether dismissal as to both Defendants was proper where only Efficient Design had filed a written motion to compel.*” PL-AT's issue V was in regard to whether dismissal was proper where “*only Efficient Design had motioned for the case to be dismissed on the basis that Plaintiff-Appellant used SCAO-approved Form MC 315 to provide her medical records, instead of his personal authorization forms.*” PL-AT's argument V was not about a motion to *compel*. It was about a Motion to *dismiss*, which as PL-AT explained in detail in III F below, was not actually what happened and she incorrectly wrote her question to the COA in her 12-20-13 Brief. What she should have said was that her case was dismissed *sua sponte* by the Court on 6-24-13. It was not by an attorney's motion to dismiss. Argument IV was the only argument surrounding a motion to compel, not Argument V, as Mr. Broaddus is trying to lead the MSC to believe on pg. 5 of his 3-23-15 Answer to PL-AT's MSC Application. Argument IV was about the case having been dismissed for PL-AT's failure to provide authorizations for records that were not requested in EDI's 4-30-13 Motion to Compel that was granted by the court on 6-21-13. The quoted statement from Culpert's MSC filing has a footnote stating an outright lie, “*Culpert had brought an oral motion to compel at the June 21, 2014 hearing (6/21/13 trans, p 9), which is permitted by the second sentence of MCR 2.119(A)(1).*” What Culpert actually brought was a written motion to compel on 4-19-13. There was no need to bring an oral motion to compel on 6-21-13 because that was the date his 4-19-13 written motion to compel was heard, not to mention he already received everything he asked for prior to the start of the hearing, so technically, his motion should have been dismissed by the Judge as moot at that point. Mr. Broaddus is clearly twisting around the arguments to confuse the court to believe that Culpert never had a Motion to Compel, to coincide with the statements in the 3-10-15 Opinion, and that the lack of a motion to compel was the reason PL-AT believed her case should not have been

dismissed, which is not her argument at all, and couldn't be anyway because Culpert *did* file a written motion to compel. For the COA to make false claims that are easily verifiable as such by examining the record, in an effort to try to justify why PL-AT's claims against Culpert should have been dismissed, even though PL-AT satisfied her obligation in regard to Culpert's written motion to compel and provided everything requested, is highly disturbing, and totally unethical and ruthless (Exhibit I, pg. 5 of Culpert's Answer to PL-AT's MSC Application; Exhibit K, Register of Actions dated 6-24-13, Register of Actions dated 3-10-15).

On pg. 5 of the 3-10-15 Opinion, the paragraph continues, "*Culpert also filed a concurrence in Efficient Design's response to plaintiff's objection to the proposed order of dismissal, which requested that plaintiff's objection be stricken and that an order of dismissal be entered by the trial court.*" First, Culpert would have had no legal grounds to request case dismissal since he received everything requested in 4-19-13 Culpert's Motion to Compel on 6-21-13. Second, as explained in detail in IIID below, there was no "proposed order of dismissal" in the sense that PL-AT had anything to object to. There was only a 7-day order under MCR 2.602(B)(3), that could only be objected to if it did not comport with the court's decision or if it involved the accuracy or completeness of the judgment. Any objections to the Order would not have the potential to reverse the dismissal, as PL-AT was tricked into believing by the court and the attorneys, explained in IIIF below.

In summary of the discussion of the quoted statements by the COA on pg. 5 of the 3-10-15 Opinion mentioned above, the last paragraph of Opinion gives the appearance that PL-AT gave nothing to Culpert at all. The Description of 6-21-13 events listed on a completely different page of the Opinion, page 2, completely avoids mention that Culpert was even present at the 6-21-13 hearing and discusses only events in regard to PL-AT's claims against Efficient Design.

Only by separating the events on different pages, and falsifying the history, is the COA able to present an argument justifying dismissal of PL-AT's claims against Defendant Culpert. The claims against Culpert should not have been dismissed. The COA's argument has no truth or merit. More importantly, the COA should not have issued an opinion on Issue V since the case was already dismissed on 11-25-14, and PL-AT was denied a legitimate oral argument hearing on Issue V since it was not possible on 3-3-15 as the case was already dismissed 11-25-14.

**D. The COA erred by its refusal to acknowledge that there were in fact, three defendants in the case by way of the number of insurance carriers, in an effort to conceal the fact that the actions of one defendant unjustly resulted in dismissal of the entire case against all three defendants/insurance companies.**

Pg. 4, ¶6 of the 3-10-15 Opinion states, “*plaintiff argues that her ‘case involves three separate insurance companies and three separate insurance policies---one for Kevin Culpert and two for Efficient Design.*” PL-AT does not simply “argue” this. It is the truth of the situation. On pg. 9 of the 5-2-13 Transcript, Mr. O’Malley refers to himself as “*co-defense counsel*” and explains that “*there’s two of us representing Efficient Design’s under two different policies.*” (Exhibit L, 5-2-13 Transcript). Mr. O’Malley and Mr. Wright are co-defendants for Efficient Design, representing two different policies. However, in filings by the DF-AEs, they have been referred to as co-counsel, which is improper, because co-counsel could only be representing the same insurance company. Mr. O’Malley represents Hastings Mutual, and Mr. Wright represents a different policy for which he has never disclosed the name of the insurance company. Culpert’s policy was with Progressive Insurance Company. Since these attorneys are acting on behalf of the interests of the insurance companies who hired them to protect the interests of the insurance companies while also defending the policyholders, Culpert and EDI, the insurance companies can also be considered defendants in the case. PL-AT clearly stated there were 3



insurance companies involved at the 3-3-15 hearing and none of the attorneys present 3-3-15 for oral argument, Mr. Wright, Mr. Broaddus or Mr. O'Malley rebutted her statement, as is evidenced on the digital audio recording of the 3-3-15 hearing.

Pg. 4, ¶6 of the 3-10-15 Opinion continues, “[PL-AT] states: *“Plaintiff-Appellant does not believe her entire case against all three insurance companies representing both Culpert and Efficient Design should have been dismissed.”* This statement was taken from PL-AT's 12-20-13 brief on appeal and did not contain a period where it has been placed in the COA's quotation.

Presented in its entirety, PL-AT's statement was as follows:

*Plaintiff-Appellant does not believe her entire case against all three insurance companies representing both Kevin Culpert and Efficient Design should have been be dismissed, for the reasons discussed above, when Mr. Wright was the only attorney presenting any issues with the Plaintiff-Appellant's production of records to the court, as explained above.*

*Plaintiff-Appellant contends that her case against Kevin Culpert should not have been dismissed, nor should her case against the insurance company Mr. O'Malley represents, regardless of the Judge's decision pertaining to Efficient Design's Motion by attorney Mr. Wright, representing a different insurance company than Mr. Culpert or Mr. O'Malley, to Dismiss Plaintiff-Appellant's case against them.*

By leaving out the important parts of PL-AT's arguments, the COA concealed the fact that PL-AT not only contested the dismissal of her case against Culpert by Mr. Wright's actions, but also the dismissal of her case against Hastings Mutual, the company that Mr. O'Malley represents. PL-AT preserved this issue in her 8-6-13 Plaintiff's Reply To Plaintiff's Objection to Defendant Efficient Design Inc.'s Proposed Order of Dismissal Without Prejudice pg. 11-12, #26-27 and on pg. 11; and in item #31 of her 7-2-13 Objection to Defendant Efficient Design Inc.'s Proposed Order of Dismissal Without Prejudice.

Pg. 4, ¶6 and 7 of the 3-10-15 Opinion states, *“Plaintiff argues that only one attorney for Efficient Design requested that her case be dismissed, but not the other attorney representing Efficient Design and not Culpert's attorney so her case should not have been dismissed. First,*

*Efficient Design is a named defendant in this case, not an insurance company. That is, plaintiff sued Efficient Design... Second, Culpert is a named defendant in this case, not an insurance company.*” Mr. Wright never actually requested any dismissal of the case, as explained on pg. 19 of this Brief and Argument IIIIF below. It is true that Efficient Design and Culpert are both “named defendants” in this case. However, the true defendants in this case are the insurance companies representing their own interests in the name of the policy holders, as well as the interests of the policy holders, which is permitted under Michigan law to protect the identities of insurance companies during lawsuits. The defendants are assumed to be responsible for the acts of the attorney representing them. Although PL-AT initially argued that Mr. Wright asked for her case to be dismissed when she didn’t understand the scheme whereby the notice that was required to be included on or with the 7-day order Mr. Wright filed with the court on 6-25-13, explaining she could only object to the content and accuracy of the order, and not the Order itself, was omitted from the Order (Ex. U). Thereby, the 8-9-13 hearing on PL-AT's Objections to the 7-day Order could not possibly have resulted in the dismissal of her case against Efficient Design or Kevin Culpert by either of the attorneys representing Efficient Design, Mr. Wright and Mr. O’Malley, or the attorney representing Kevin Culpert, since her case was dismissed *sua sponte*, by Judge Borman on 6-24-13 after Mr. Wright and Mr. O’Malley appeared at a “special conference” Plaintiff was not notified of and had no reason to attend because Mr. Wright had already been provided with authorizations releasing her medical records. The fact that Mr. O’Malley appeared at the special conference on 6-24-13, and not just Mr. Wright, is questionable, because he was not present in the Court room on 6-21-13 and did not appear before Judge Borman on 6-21-13, when Judge Borman ordered Mr. Wright to e-mail copies of his personal authorization forms to PL-AT on 6-21-13 and for PL-AT to provide authorization forms

to Mr. Wright before 2:00 pm on 6-24-13 so PL-AT and Mr. Wright would not have to return to Judge Borman's Court on 6-24-13.

The COA erred by concealing the fact there were actually three insurance company policies and three claims filed by only two policy holders, EDI and Culpert, that were dismissed by Judge Borman, *sua sponte* on 6-24-13, after the Court took only Mr. Wright's word that PL-AT only provided him half of what only one of EDI's attorney's policy claims was requested, without asking to see any evidence of his claims, and Mr. O'Malley's word he was relying on Mr. Wright's forms which he never previously expressed in any filing or court hearing. Note that Mr. Wright has removed himself from the COA filings to a large extent, relying on Mr. O'Malley and Culpert's attorney to write about Mr. Wright's own actions, which is ludicrous. Mr. Wright has thereby hidden his involvement in the dismissal. By Mr. Wright and Mr. O'Malley lying to Judge Borman on 6-24-13, Judge Borman dismissed PL-AT's claims against all three insurance companies and Defendants EDI and Kevin Culpert. The 3-10-15 Opinion constructed by the COA only reinforces this misrepresentation of Mr. Wright's involvement.

The MSC already seems to have the misconception that Mr. Wright is somehow "dispensable" in this case, as the 3-12-15 Notice from Supreme Court Clerk, Larry Royster, was not sent to Mr. Wright, and was only sent to Culpert's attorney, Mr. Broaddus, and one of the attorneys representing Efficient Design, Mr. O'Malley. When PL-AT called the MSC on 3-17-15 to inform them of the error in not including Mr. Wright in their correspondence, the clerk, Cheryl, again seemed to misunderstand that he is not a co-attorney with Mr. O'Malley. He is a co-defendant for Efficient Design, working for a completely different insurance company. Cheryl said she would mail him a copy of the 3-12-15 Notice from the MSC, but would not be making an entry into the Register of Actions. PL-AT mailed Mr. Wright a copy of the letter as

well, to insure he did indeed receive it (Exhibit M, 3-17-15 letter and return receipt from PL-AT to Mr. Wright and attached MSC letter dated 3-12-15).

Even if the Court believed that Defendant, Hastings Mutual, represented by Mr. O'Malley, for policy-holder EDI, should be dismissed based on PL-AT's refusal to provide records beyond those requested in EDI's Motion to Compel filed by Mr. Wright, that was granted by the Court, Culpert's attorney, Mr. Hassouna, had no basis upon which to argue he was entitled to have the court dismiss PL-AT's complaint against Culpert since Mr. Hassouna never objected to the medical authorization forms he received from PL-AT at the Court on June 21, 2013. Thereby, Culpert's appellate attorney, Mr. Broaddus, hired by Progressive Insurance to represent Culpert and Progressive's interests, in the COA case, also had no legal grounds to attach Culpert to the COA case, and make claims against PL-AT regarding the authorization forms or to claim the Doctrine of Collateral Estoppel along with Efficient Design and the two separate attorneys, Mr. Wright and Mr. O'Malley, working for separate law firms, representing two different insurance companies for which Efficient Design held liability policies.

Pg. 4, ¶7 of the 3-10-15 Opinion in the section discussed above also contains an erroneous claim by the COA that, "*because plaintiff repeatedly refused to provide the requested record release authorizations, Efficient Design sought dismissal of plaintiff's claim against it.*" The only record release authorizations PL-AT refused to provide were the additional releases that were not a part of the 4-30-13 motion to compel that was granted by the court on 6-21-13, which was the subject of Issue IV of PL-AT's 12-20-13 brief on appeal. PL-AT fulfilled her obligation to provide medical records to both Defendants by executing and mailing SCAO-mandated Form MC 315 to over 20 health care providers. Further, Efficient Design never

actually formally sought dismissal, either by written or oral motion. PL-AT's case was dismissed *sua sponte* by the court as explained in Item III F below.

**E. By omission of important relevant information, and constructing its own meaning from the 6-21-13 transcript, the COA erred by creating a false story in order to justify its inclusion of Issue I of PL-AT's Brief on Appeal with the 11-25-14 Order, which was a liability issue that could not possibly be related to the MEEMIC case by the doctrine of collateral estoppel.**

PL-AT argued on pg. 7 of her 11-7-14 Answer to Motion to Affirm that Issue I of her 12-20-13 Brief on Appeal was about establishing liability, which had nothing to do with the MEEMIC case, for which the COA claimed collaterally estopped the PL-AT from having similar claims against Culpert and EDI as she did against MEEMIC. This issue has also been discussed in PL-AT's 3-10-15 MSC Application for Leave to Appeal the 11-25-14 Order.

**Issue I of PL-AT's Brief on Appeal posed the following question:**

*Did the circuit court err by ordering Plaintiff-Appellant to provide her medical records to Efficient Design without establishing that they were a liable party to the case?*

There was no question that MEEMIC was the liable party in the PIP case as they were the Plaintiff's insurer, so this question in no way relates to the MEEMIC case, and therefore the doctrine of collateral estoppel should not have been applied. In the instant case, PL-AT was ordered to provide her medical records to Mr. Wright, the attorney representing an insurance policy held by the company, Efficient Design Inc., who had denied they were even Kevin Culpert's employer in prior pleadings. The question of whether the court could order the Plaintiff to provide medical records to a party that claimed they were not liable, and no liability was ever determined through a deposition of Kevin Culpert that Mr. Wright was ordered by the Judge to conduct but never conducted, should not have been included with the COA's 11-25-14 Order upholding the dismissal of PL-AT's entire case due to the application of the doctrine of

collateral estoppel. To conceal this misuse of its power, the COA has presented false claims and omitted important information related to Issue I, as explained below.

The COA erred by giving the false appearance that EDI simply hadn't admitted liability, when PL-AT made it clear that they had denied liability, and by misrepresenting the dialogue between the Court and PL-AT on 6-21-13 as represented in the transcript. In the COA's discussion of PL-AT's 6-18-13 Answer to EDI's 4-30-13 Motion to Compel, the COA provides quotations on pg. 2, ¶2 of the 3-10-15 Opinion, from PL-AT's Answer, indicating that PL-AT objected to providing records to a party that had not admitted responsibility and for whom it was not yet established through discovery that EDI was liable for harm caused by Kevin Culpert. However, the COA leaves out the most important statement on pg. 2 of PL-AT's 6-18-13 Answer: *"According to Defendant, Efficient Design Inc.'s 2-6-13 Answer to Plaintiff's Complaint, Item #16, "Defendant Culpert was **not an agent of Efficient Design Inc.** and was **not in the course and scope of his employment** when the alleged accident occurred." Plaintiff still needs to obtain interrogatories from Kevin Culpert and Efficient Design, Inc. to determine the liability of Efficient Design, Inc."* There is a big difference between "not admitting" something, and "denying" something. The COA neglects to mention that EDI actually denied liability in this case (Exhibit N, Relevant page of Mr. Wright's 2-5-13 Answer to Complaint against Efficient Design).

In reference to the oral arguments on this matter held 6-21-13, the 3-10-15 Opinion states in ¶3 on pg. 2 that *"Plaintiff also argued that she should not have to give records to a party that has not admitted any liability."* Again, there is a big difference between "not admitting" and "denying." The Opinion continues, *"The trial court advised plaintiff that her argument had no merit and that if she did not provide requested authorizations, the case would be dismissed."*

*Plaintiff responded: “Okay, it's just that Efficient Design hasn't said they were liable, so.”* It is not true that the trial court advised plaintiff that her argument had no merit. Below is the section of the transcript that is referenced in ¶3 on pg. 2 of the Opinion presented in its entirety:

*Ms. Filas: Well, in my motion though I asked that I could have time to investigate whether or not they're even liable because right now they're not even admitting that Mr. Culpert -- that they are the employer of Mr. Culpert.*

*The Court: **We don't wait for liability. No, no. That's not the way –***

*Ms. Filas: I shouldn't have to give my records to a party that may not even be party to this case though. They haven't –*

*The Court: No, they are party to this case.*

*Ms. Filas: But they haven't admitted any liability.*

*The Court: They don't -- that's not how it works. You have a choice, you either do it or no case. Now, we've been through this before with your first party case. Nobody cares about your medical records.*

*Ms. Filas: While I understand that they have to go to the first party and have them all filled out for Mr. Hassouna as well.*

*The Court: Either do it or no case, okay.*

*Ms. Filas: Okay, it's just that Efficient Design hasn't said they were liable, so.*

The trial court indicated that they “don’t wait for liability” and therefore require parties to provide records to any defendants the plaintiff named on the case, regardless of whether that defendant is denying liability in their pleadings. The above dialogue does not indicate that PL-AT's argument regarding the establishment of liability prior to providing medical records to a party “had no merit,” as the COA stated in its 3-10-15 Opinion. The COA should have been explaining in its Opinion justification for how Issue I could have been included in its 11-25-14 Order to uphold dismissal of the entire case based on the doctrine of collateral estoppel, when Issue I had to do with liability, which was not in question in the MEEMIC case, COA Docket No. 316822, the case used to claim collateral estoppel. Instead, the COA completely avoids mention that Issue I was included with the others deemed to be similar to many of the issues that were raised and rejected by the COA in PL-AT's appeal related to the dismissal of her first-party PIP case. Nonetheless, it should be clear that whether PL-AT disagreed with providing records to EDI before establishing liability, she provided the records she was ordered to provide at the 6-

21-13 hearing on EDI's Motion to Compel, on the morning of 6-24-13 to Mr. Wright's office, before liability was established (Exhibit F, 6-24-13 signed cover letter from Wright's Office).

**III. The 3-10-15 Opinion is defamatory to PL-AT, contains numerous misrepresentations, omissions, false statements, and a novel argument not supported by fact. It is a fraud against the court and should be stricken from the record and removed from the internet to protect PL-AT from harm.**

PL-AT has already rebutted many of the items presented below in numerous filings. It is as if the Court of Appeals only read the DF-AE's documents and ignored the PL-AT's pleadings and proofs, and then went even further to fabricate its own story of the events. The COA's statements in the 3-10-15 Opinion are slanderous and defamatory, and will influence others that read this Opinion online. It is highly likely that the Court has never been challenged by anyone in regard to using MC 315, and do not want it to be known that it is a Plaintiff's right to use MC 315 to provide their records to attorneys involved in their case, and that they do not have to use a records copying service form, or the attorney's own forms.

**A. The 3-10-15 Opinion inaccurately portrays the reasons PL-AT did not provide specific signed authorizations for the release of her records, conceals the true reason for the dismissal of her entire case by the trial court, and uses quotations that PL-AT never said or implied.**

The first sentence of the 3-10-15 Opinion states that PL-AT's third-party no-fault insurance case was dismissed by the trial court "*after she refused to provide signed authorizations for the release of her records during discovery.*" This sentence gives the appearance that PL-AT did not provide any authorizations at all during discovery, which is untrue. PL-AT fulfilled her obligation to provide medical records to both Defendants by executing and mailing SCAO-mandated Form MC 315 to over 20 health care providers. However, the circuit court dismissed PL-AT's case against both Culpert and EDI and their 3



insurance companies, for her refusal to re-do the extensive process using attorney, Mr. Wright's personal forms that contained language above and beyond the requirements of MC 315 for the insurance company Mr. Wright's represented for only one of Efficient Design's policies.

The only authorization forms PL-AT refused to sign were the additional record release forms that were not part of EDI's attorney Wright's 4-30-13 motion to compel that was granted by the court and 6-21-13, which was the subject of Issue IV of PL-AT's 12-20-13 brief on appeal. As explained in item IIB above, Issue IV should not even be part of the 3-10-15 opinion, since this issue was rendered moot by the COA's granting of Culpert's Motion to Affirm based on the doctrine of collateral estoppel on 11-25-14. The COA completely avoided a discussion of the primary reason that the trial court dismissed her case, which was because of her refusal to re-do the extensive process using attorney, Mr. Wright's personal forms that contained language beyond the requirements of MC 315, giving Wright permission to re-copy her records.

Pg. 4, ¶2 of the 3-10-15 Opinion states, *"plaintiff apparently believes, however, that defendants are required to 'simply take her word for it' that she suffered these purported numerous and egregious injuries. But as the trial court repeatedly explained to plaintiff, she is wrong."* PL-AT has never said or implied that she believes the defendants were required to "simply take her word for it," and this is evidenced by the fact that she provided signed, executed copies of MC 315 for all of her healthcare providers, requesting any and all records to be provided to both Mr. Hassouna, representing Kevin Culpert, and Mr. Wright, representing Efficient Design (Exhibit O, two samples of completed MC 315 Forms and cover letters to two different providers; Exhibit J, letters from health care providers verifying records were sent). PL-AT only objected to using a third-party records copy service and/or Mr. Wright's personal forms that contained language that could be interpreted as giving Mr. Wright permission to re-

copy and re-disclose records he obtained from her. PL-AT objected to the fact that the record copy service forms and Mr. Wright's forms contained language above and beyond what is required on SCAO-mandated form MC 315, which was the form to be used since PL-AT was compelled to provide these authorizations under MCR 2.314(C)(1)(d). The trial court therefore did not explain that PL-AT was wrong about having to provide records, as the COA implies by the quoted statement, because PL-AT had always been in agreement with providing records. The dispute was over *how* the records would be provided. The Court would not permit the PL-AT to use MC 315 in her first-party MEEMIC case, and did not accept the already executed and mailed copies of MC 315 that were completed for Mr. Wright for EDI. The Court *did* explain that “the way it’s done” is by going “through Record Copy Service” at the May 2, 2013 hearing, and the Court *did* refuse to accept the already executed copies of MC 315 for Mr. Wright at the 8-9-13 hearing and ordered PL-AT to re-do the process with Mr. Wright’s forms or her case would be dismissed (Exhibit L, pg. 7 of 5-2-13 Transcript, Exhibit P, 8-9-13 Transcript). PL-AT now realizes her case was already dismissed on 6-24-13 at the special conference. The Court could not have reversed the dismissal based on her objection to a 7-day order (refer to item IIIIF below).

Pg. 4, ¶2 of the 3-10-15 Opinion continues, “*plaintiff’s proffered reasons for refusing to sign record release authorizations included that: the requested records would be going to a third-party for copying; Efficient Design not admit liability; she had “a problem with some of the clauses” on the authorizations; and she did not want some of her records provided to defendants.*” To clarify, it is true that PL-AT originally had objected to providing her records to a third-party records copying service as evidenced by the 5-2-13 transcript, but ultimately, this is not what she was ordered by the court to do on 6-21-13 or 8-9-13. PL-AT was ordered to use Mr. Wright's personal authorization forms which released the records directly to him, but also

gave him permission to re-copy her records once he received them, which then could have been re-copied and given to any third party including a record copy service. As explained in IIE above, it wasn't just that Efficient Design did not admit liability---they "denied" liability. Again, this is a moot point since PL-AT ultimately provided the medical authorizations she was compelled to provide on 6-21-13 anyway, even though she disagreed with having to do so. Because she did not want her case to be dismissed, she therefore complied with the court's 6-21-13 order and provided executed and mailed medical authorizations to Mr. Wright. Third, the COA quotes the 8-9-13 transcript, that PL-AT had "*a problem with some of the clauses*" on the authorizations, but neglects to mention that these "problem clauses" were in regard to requirements that were not part of SCAO-mandated form MC 315. On 8-9-13, PL-AT objected to having to repeat the entire process of disclosing her medical records using Mr. Wright's forms when she had already executed and mailed Form MCC 315 to all of her healthcare providers, requesting any and all records be sent to Mr. Wright. At this time, Mr. Wright had already received records from some of the providers (Exhibit J, Letters from health care providers verifying that records were sent to Mr. Hassouna and Mr. Wright).

Lastly, in reference to the quotation from Pg. 4, ¶2 of the 3-10-15 Opinion, PL-AT never stated or implied that "*she did not want some of her records provided to defendants.*" This would be nonsensical, as PL-AT wanted to be compensated for all of her injuries and never had any objections to providing medical records to the Defendants. In fact, in addition to requesting any and all records, she even included a cover letter with each copy of MC 315 sent to each healthcare provider, listing the dates of treatment, so that the Defense attorneys could verify they had received records for each of those dates (Exhibit O, two samples of completed MC 315 Forms and cover letters to two different providers).

**B. PL-AT did not place any limitations on what would be discoverable and did not alter authorizations or fail to provide the authorizations she was compelled to provide.**

Pg. 3, ¶1 of the 3-10-15 Opinion states that PL-AT “*limited the authorizations to records for specific treatment dates.*” PL-AT provided treatment dates as a courtesy so that Defense attorneys could verify they had received records from each of those dates. PL-AT requested any and all records, including but not limited to, the treatment dates provided (Exhibit O, two samples of completed MC 315 Forms and cover letters to two different providers).

Pg. 2, ¶4 of the 3-10-15 Opinion states, “*Counsel for Efficient Design advised the trial court that plaintiff had stopped by his office and provided only about half of the requested authorizations. And they were altered.*” Pg. 2, ¶5 of the 3-10-15 Opinion states, “*Plaintiff denied that she altered the authorizations or that she failed to provide the requested authorizations.*” PL-AT could not have “altered” authorizations she hadn’t even received. The forms provided to Mr. Wright by PL-AT were signed, executed, copies of SCAO MC 315 medical authorizations she already mailed to her health care providers on 6-21-13, so her case would not be dismissed, after Mr. Wright failed to e-mail his insurance client’s authorization forms, his law firms’ authorization forms or his personal authorization forms to PL-AT by the end of the business day on 6-21-13. There were no alterations to the MC 315 forms provided by PL-AT, they were just not the forms Judge Borman ordered Mr. Wright to provide on 6-21-13 for PL-AT to use. PL-AT did not provide “half” of what was requested. She provided “all” of what she was compelled to provide by Judge Borman at the 6-21-13 hearing---signed medical release authorizations for her health care providers to provide her medical information to Mr. Wright, except for a couple she inadvertently missed which were mailed out on 6-24-13 and 6-26-13. The only records for which PL-AT did not complete authorizations were those not

requested in the Request for Production of Documents for which the Motion to Compel was granted, as argued in Issue IV of PL-AT's Brief on Appeal.

**C. In its 3-10-15 Opinion, the COA presented a novel, unsubstantiated argument, never argued in any pleadings filed by the parties, claiming that the SCAO-mandated form MC 315 that PL-AT executed for Efficient Design's attorney, Mr. Wright, that had already been mailed to her health care providers, was "not accepted by many medical providers."**

Pg. 3, ¶1 of the 3-10-15 Opinion states, "*Efficient Design responded to plaintiff's objection [to the "proposed order of dismissal"]<sup>2</sup>, arguing that the authorizations it sought were sent by e-mail to plaintiff as directed by the court, and plaintiff failed to check her email for those expected authorizations. Instead, plaintiff filled out some SCAO forms, which are not accepted by many medical providers...*"

First, PL-AT checked her e-mail just after the official end of the business day on 6-21-13, since Mr. Wright was ordered to provide the authorizations to PL-AT on 6-21-13. It was Mr. Wright that did not timely comply with the Court's Order to provide the authorizations, which is why PL-AT completed copies of MC 315 for her health care providers instead. The COA misleads the reader of its 3-10-15 Opinion to believe that PL-AT could have filled out the authorizations while in court on 6-21-13, by its statement on pg. 2, ¶3, "*Plaintiff said that she would provide the authorizations and, although the trial court wanted her to do so while they were in court, plaintiff declined saying that "it takes a lot more time than that."*" Let it be clear that Mr. Wright did not even have the authorizations with him at the court, and this is evidenced by the transcript, so it would not have been possible for PL-AT to complete them at the court that day. Because Mr. Wright did not have the authorizations, claiming that he did not know the PL-

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<sup>2</sup> As explained in item III F, there was never truly a "proposed order of dismissal." It was a 7-day Order which could only be objected to in form or accuracy in accordance with MCR 2.602(B)(3), and could not result in a reversal of the 6-24-13 dismissal that took place at the 6-24-13 special conference.

AT's health care providers, he was ordered to provide them to PL-AT on 6-21-13. Pg. 17 of the 6-21-13 transcript (Ex. H) indicates that the Court asked Mr. Wright, "*How come you didn't just bring authorizations with you today knowing that --*" Mr. Wright replied, "*Your honor, I didn't know who her treaters were until I got the interrogatories this morning.*" The real reason Mr. Wright did not have any authorizations with him that day is because his Motion to Compel did not seek signed medical authorizations. According to Efficient Design's Request for Production of Documents dated 2-7-13, Efficient Design sought "*copies of any and all medical records relating to injuries received as a result of the subject accident.*" (Exhibit D, relevant page of 2-7-13 request for production).

Second, and most importantly, contrary to the COA's quoted statement on pg. 3, ¶1, DF-AEs never claimed that some medical providers did not accept SCAO-mandated form MC 315. This is a novel argument constructed by the COA to justify the circuit court's refusal to accept executed, mailed copies of MC 315, similar to the novel argument constructed by the COA that it was a Protective Order that prevented PL-AT from using MC 315 in her first-party PIP case, even though the PO contained no such language and was never claimed as a reason PL-AT could not use MC 315 by the DF-AEs in the MEEMIC case, Docket No. 316822. If a provider refused to accept MC 315, they would be breaking the law because it is the official SCAO-mandated form to disclose records for a court case. The insurance company would fight the provider if they didn't disclose the records. It would no longer be the PL-AT's responsibility to enforce that the provider produced the records.

**D. The COA Opinion did not even mention SCAO-mandated form MC 315, nor its basis in MCR 2.314(C)(1)(d), which were the main bases of the COA's upholding the dismissal of PL-AT's case with its 11-25-14 Order to grant Culpert's Motion to Affirm based on collateral estoppel, even though PL-AT's desire to use and actual use of MC 315 were supposedly the "similar issues" that collaterally estopped PL-AT from litigating them with Culpert and EDI.**

PL-AT has already explained her disagreement that the issues in the MEEMIC case were similar to the issues in the Culpert and Efficient Design case, and presented a side-by-side analysis of the Questions Presented in the COA appeals, which can be found on pgs. 18-24 of her 3-10-15 Application for Leave to Appeal to the MSC. Here, PL-AT simply wants to point out that the 3-10-15 COA Opinion purposely concealed the main basis of the instant case, which was the trial court's refusal to accept already executed and mailed copies of SCAO Form MC 315, which is the mandated form to be used for requests for production of medical information under MCR 2.314(C)(1)(d). Instead, the trial court ordered PL-AT to re-do the process using the Defense attorney's personal forms that had objectionable clauses going above and beyond requirements of MC 315, including, but not limited to, a clause that permitted him to act as a copy service to further disclose PL-AT's records. The main basis of the MEEMIC case was that PL-AT was not permitted to use MC 315 and was ordered to use Records Deposition Services, Inc. forms from a third-party records copying service.

Both cases surrounded the use of the specific SCAO-mandated form MC 315. Below are Questions 2, 3, and 6, from the instant case, that were included with the COA's 11-25-14 Order to uphold the dismissal of the entire case based upon the doctrine of collateral estoppel.

Question #2 from 12-20-13 COA Brief on Appeal:  
*Did the circuit court err by not permitting Plaintiff-Appellant to use SCAO-mandated form MC 315 to satisfy her obligation to provide discovery materials under MCR 2.314(C)(1)(d), since she also had the choice under MCR 2.314(C)(1)(a) to simply provide the medical records?*

Question #3 from 12-20-13 COA Brief on Appeal:

*Did the circuit court err when it dismissed Plaintiff-Appellant's case based on her refusal to complete specific authorization forms provided by the Defendant-Appellee, when there were still other means available for the Defendant-Appellee to obtain the medical and employment records they sought (i.e. subpoena to health care provider's custodian of records or use the mandated SCAO form MC 315, obtaining the employment records directly from her employer since Plaintiff-Appellant is a public school teacher whose employment records are publicly available)?*

Question #6 from 12-20-13 COA Brief on Appeal:

*Is the Plaintiff-Appellant in a third-party tort, or in any case where medical records are requested as a part of discovery, justified in refusing to agree to additional language and/or missing information on a medical or employment authorization form that is not included in the SCAO-mandated Form MC 315 (i.e. allowance of photocopies, use of an expiration event instead of a date, allowance of records to be released "for copying purposes")?*

Clearly, the use of Form MC 315 was the basis of this case. However, the COA conceals this fact by never mentioning Form MC 315 by name anywhere within the Opinion, making it unsearchable by form name on the internet if anyone is looking for court cases in regard to the use of MC 315. Instead, when referring to the executed and mailed copies of SCAO-mandated form MC 315 that PL-AT gave to Mr. Wright, the 3-10-15 Opinion refers to them as "*some SCAO medical authorizations*" on page 2 ¶1, and as "*some SCAO forms, which are not accepted by many medical providers,*" thereby concealing what form PL-AT actually used to disclose her medical records. There is only one SCAO medical authorization form. It is MC 315. As explained in IIC above, it is the law that medical providers accept MC 315, and this novel argument was created by the COA and never raised or preserved by any defendants.

By leaving out any reference to MCR 2.314(C)(1), the COA also prevented anyone from finding the Opinion through an internet search in regard to the court's procedure in regard to the production of medical records, which is covered under that court rule. MCR 2.314(C)(1)(d) specifies the use of the form approved by the state court administrator, which is MC 315.



**It is reprehensible for the COA to issue an Opinion that doesn't mention the contested SCAO form by name or the court rule upon which this case was based.**

- E. In order to justify upholding the sanction of case dismissal, the COA makes false claims that PL-AT has had cases dismissed for refusal to sign authorizations. PL-AT's separate, first-party case filed in Dec. 2012 was dismissed because PL-AT refused to sign unmodified, third-party Records Copy Service forms in the MEEMIC case after the Court refused to accept MC 315 or the health care providers' medical release authorization forms, not because she refused to sign authorizations. The instant case was dismissed because of the court's refusal to accept already executed and mailed MC 315 forms. PL-AT's previous combined first- and third-party case was a stipulated dismissal without prejudice to buy time to diagnose her injuries.**

In reference to the 5-2-13 hearing, Page 1 ¶2 of the 3-10-15 Opinion states, *“During the course of the hearing, the trial court referenced plaintiff's refusal to sign records release authorizations that had been requested by the defendants, noting that the case had already dismissed once because of her refusals and ‘[t]here's going to come a point where if I've dismissed the case twice, it's going to be with prejudice...’”* This is a misleading representation of the transcript because it incorrectly summarizes the preceding quotation. Below is the pertinent part of that dialogue from the 5-2-13 transcript, Exhibit K, pg. 6-7:

*THE COURT: Same thing. She's not going to sign the authorization. You're going to end up having this case dismissed too because ma'am, you have to sign the authorizations. You can't did 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 will not 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 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 have to do.*

The discussion between the Court and PL-AT on pg. 6 of the 5-2-13 transcript, quoted above, was about PL-AT's first-party auto case against MEEMIC, which was dismissed on 4-26-13 not for PL-AT's refusal to sign records release authorizations, but for the court's refusal not to accept either the health care providers' forms, MC 315, or a modified Records Copy Service form as the authorization form(s) to be used to provide PL-AT's medical records to defendant MEEMIC. PL-AT only refused to sign unmodified, third-party records copying service forms in the MEEMIC case, as she was ordered to do by the court. The "restrictions" PL-AT included on the form were only that the records were to be released only to the Defendant (Exhibit Q, modified form from MEEMIC case). PL-AT only limited future disclosures of her records by the records service, a private company that doesn't even allow PL-AT to view her own records that the service obtains. The transcript shows PL-AT as having been cut off when she tried to explain the "restrictions," but PL-AT believes she was able to speak a few more words and finished that sentence, stating "*The only restriction that I put on it was that only the attorneys [received the records.]*" This is further exemplified by PL-AT's statement on pg. 7, stating that she "*just wanted to clarify that it was just going to the one attorney*" and that she "*just wanted to make sure it just went to that attorney though and it didn't say Records Deposition who it was even being disclosed to. Basically the way the form is written it allowed them --*" Before she was cut off, PL-AT was trying to explain that the RDS form had no indication to whom the records were being released, and that the way it was written, RDS could make further disclosures. PL-AT's case against MEEMIC was not dismissed due to her refusal to sign authorizations, as portrayed by the choice statements from the transcript, but for her refusal to sign third-party record copy service authorization forms without being able to modify them to assure that they would only be used to disclose records to the attorney in the case.

The COA also falsifies the conversation in the 5-2-13 transcript when it quotes the Court as saying, *“This is what the law requires. I understand you don't want to do it, but in order to bring such a lawsuit, you have to do it,”* and then stated that the PL-AT's response was, *“But I'm being asked to give records to a third-party, not just the attorneys. I'm being asked to give them to this deposition service, and I just wanted to clarify that it was just going to the one attorney.”* This statement was not PL-AT's response to the quoted statement by the court. Knowing that there exists no law or court rule requiring PL-AT to provide private medical records to a third party, the COA has deliberately left out PL-AT's real response, and the Court's response to it, as indicated by the transcript, which was:

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

*THE COURT: okay, I don't care what you see. I don't care what you see. We've gone over this. It's not what you see.*

The COA Opinion continues on pg. 1 ¶2 with further quotations from page 7 of the 5-2-13 transcript, ending with the Court's statement that, *“It goes through Record Copy Service. They don't care about your medical records, but that's the way it's done, okay. That's the way it's done. That way they know they get all your records and that you're not keeping any back.”* The 5-2-13 transcript clearly indicates on pg. 8 that PL-AT had no problem providing her records to the attorneys and insurance company, and that her only objection was to providing records to a third party records copy service (“RCS”). The Court erroneously claims on pg. 8 of the 5-2-13 transcript that her records were *“not going to go to any third party,”* but the copying service itself was the third party PL-AT was objecting to. Further, the Court's comment about PL-AT keeping back records is ludicrous when PL-AT wanted to be compensated for all of her injuries. By using a RCS that only discloses records to attorneys and insurance companies, it is actually the PL-AT who cannot be certain whether all of her records were truly provided and considered in the case

so that she can receive a fair settlement. PL-AT would have no way of determining which records the service actually obtained since RDS would not disclose them to her. As explained in IIIB above, PL-AT never placed any limitations on the records to be disclosed.

Pg. 3 ¶1 states *“Efficient Design noted that plaintiff’s first party no-fault insurance lawsuit had been dismissed because of her failure to provide signed authorizations...”* PL-AT’s first-party no-fault insurance case against MEEMIC Insurance Company was not dismissed due to PL-AT’s failure to provide signed authorizations. It was dismissed for PL-AT’s failure to sign unmodified third-party records copying service forms from Records Deposition Services Inc., and the court’s refusal to accept either the health care providers forms, MC 315, or a modified RDS form (Refer to claims made in the MEEMIC Case, COA No 316822, MSC No. 150510).

Pg. 2 ¶3 states *“During oral arguments on the motions held on Friday, June 21, 2013, counsel for Efficient Design advised the court that plaintiff continued to refuse to provide signed authorizations releasing her records, as she had since 2010.”* The Opinion is referencing pg. 6 of the 6-21-13 transcript, in which Mr. Wright, Efficient Design’s counsel, stated, *“the problem is that I think we’ve been having going on with this case since when I was involved back to 2010 is that Ms. Filas is refusing to provide signed medical authorizations.”* It is disturbing to PL-AT that Mr. Wright claimed he was involved in the case in 2010. Plaintiff has no knowledge or record of attorney James Wright having ever being involved in any way in 2010 with her auto accident case that was not even filed until November 15, 2011 by her previous attorney Terry Cochran after she hired him on 11-4-11. Mr. Cochran had his secretary provide PL-AT with her complete case file in June of 2012. There was nothing with Mr. Wright’s name on it. There is nothing in the court records or case file that her second attorney, Mr. Salisbury provided to PL-AT after she dismissed him, indicating Mr. Wright was involved in her case in 2010, or any

information identifying names of the insurance companies under which EDI held liability policies that provided attorneys James Wright and Michael O'Malley to represent Efficient Design. Efficient Design did not become a Defendant represented by Mr. Wright in the third-party case until it was separately filed on January 14, 2013.

It is not true that PL-AT would not provide signed medical authorizations to obtain records for the Defendants in either the dismissed combined first- and third- party case, or after the first- and third- party cases were filed separately in 2012 and 2013, respectively. PL-AT only refused to sign medical authorizations provided by the defense attorneys that she felt had clauses in them that she was not required to accept, and/or that gave the defendant's attorney permission to copy and provide her records to anyone they wanted to, including any known non-party to the case such as a records copy service, to copy and re-release her records to anyone who qualified to subscribe to their services, which is limited to attorneys and insurance companies.

**F. Plaintiff's case was dismissed *sua sponte* on 6-24-13 at a "special conference" that Plaintiff was not informed of and was not listed on the R of A on 6-24-13. A 7-day Order was filed by Efficient Design's attorney, Mr. Wright, that did not include the notice required under MCR 2.602(B)(3). Both the court and DF-AE tricked PL-AT into believing that by filing objections to the 7-day Order, she could reverse case dismissal, when in reality, she could only correct any inaccuracies to the Order involving the 6-24-13 dismissal. The final dismissal of the PL-AT's case in the trial court was 6-24-14, not 8-9-13, when her Objections to the 7-day Order were heard. The Opinion contains many erroneous statements in regard to the 6-24-14 special conference.**

It should be clear that PL-AT's case was not dismissed by the granting of a Motion to Dismiss filed by DF-AE, as PL-AT inadvertently stated in regard to Item 5 of her 12-20-13 Brief on Appeal. PL-AT's entire case was dismissed *sua sponte* by the circuit court based on Mr. Wright's assertions at a 6-24-13 "special conference" that PL-AT did not comply with his Motion to Compel. PL-AT was not informed about being required to appear at the court on 6-24-13 for the "special conference" and was unaware that Mr. Wright was not satisfied with the copies of

the filled out SCAO MC 315 forms Plaintiff had mailed to her health care providers along with copies of her postal receipts proving the medical release forms were mailed on June 21, 2013, that were hand-delivered to Mr. Wright's legal office at 11:24 a.m. on 6-24-13, until she was informed by telephone by the court later that afternoon that her case had been dismissed (Exhibit F, signed cover letter from Wright's office). The special conference did not even appear on the 6-24-13 Register of Actions on 6-24-13 (Exhibit K, Register of Actions dated 6-24-13, Current Register of Actions dated 3-10-15).

By dismissing the case *sua sponte* on 6-24-13, the Court went against its own word because previously, on 5-2-13, the Court told EDI that a motion would be required to dismiss PL-AT's case. On pg. 8 of the 5-2-13 transcript (Exhibit), the following dialogue appears:

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

THE COURT: No.

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

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

On pg. 2, ¶ 4 of the Opinion, it is stated, "*On Monday, June 24, 2013, oral argument on defendants' motions was continued with regard to plaintiff's refusal to provide the requested authorizations.*" This statement is erroneous. Both Culpert's Motion to Compel filed 4-19-13, and EDI's Motion to Compel filed 4-30-13 were heard and granted by the Court on 6-21-13. Therefore, there were no oral arguments on these motions to continue on 6-24-13 as they were done and over on 6-21-13.

On pg. 2 ¶ 3 of the Opinion, it is stated in reference to the close of the 6-21-13 hearing, "*Thereafter, the trial court advised plaintiff that if defense counsel [for Efficient Design] did not*

*get the requested authorizations---without amendment or alteration---by Monday, either outside of court or at a 2:00 p.m. court hearing, her case would be dismissed.”* At the 6-21-13 hearing at which both DF-AEs’ Motions to Compel were granted, PL-AT’s understanding was that she had to deliver signed authorizations to Mr. Wright by 2:00 PM on 6-24-13. There was no scheduled hearing on 6-24-13, as the COA Opinion insinuates. On page 8 of the 6-21-13 transcript, the Court states, *“If he does not get those authorizations by Monday or you can come back Monday at 2 o’clock, and you can come back with the authorizations.”* The key word here is “or.” Either PL-AT could deliver the authorizations to Mr. Wright prior to 2:00 p.m., or, she could show up in court at 2:00 p.m. On page 17 of the 6-21-13 transcript, the Court states, *“I’ll see you Monday, hopefully not,”* indicating that if PL-AT submitted the authorizations to Mr. Wright, there would be no reason for anyone to come to court at 2:00 p.m. on 6-24-13. PL-AT hand-delivered executed Form MC 315 for all the health care providers listed in the interrogatories at 11:24 a.m. on 6-24-13, fulfilling her requirement to disclose any and all records to the DF-AE Efficient Design (Exhibit F, signed cover letter from Wright’s office). Therefore, there should have been no reason to come to the court at 2:00 p.m. PL-AT looked at the Register of Actions on the morning of 6-24-13 and printed the Register of Actions after the close of court at 4:30 PM and no hearing was shown for 6-24-13. Later, the “special conference” was added to the Register of Actions as can be seen in the 3-10-15 R of A. (Exhibit K, Register of Actions dated 6-24-13, Current Register of Actions dated 3-10-15).

On pg. 2, ¶ 4 of the Opinion, in regard the 6-24-13 special conference, it is stated, *“Plaintiff was not in court, but the court noted on the record that plaintiff knew about the hearing...”* As stated above, since PL-AT fulfilled her obligation to disclose any and all medical records to Mr. Wright via executed copies of MC 315, there would have been no reason to come

to court on 6-24-13, especially since Mr. Wright did not inform PL-AT he was not satisfied with the copies of MC 315.

On pg. 2, ¶ 4 of the Opinion, in regard the 6-24-13 special conference, the quoted sentence above continues, “... *and an attempt to reach her by telephone was unsuccessful.*” The Court did not make a genuine attempt to contact PL-AT. The court clerk called PL-AT's mother, not PL-AT herself, at a number that was never provided to the court by PL-AT. PL-AT was accused by the clerk of impersonating her mother, a claim PL-AT already rebutted and provided phone records and a sworn affidavit from her mother in her 8-6-13 Reply to Plaintiff’s Objection To Defendant Efficient Design Inc.’s Proposed Order of Dismissal Without Prejudice. The court clerk, Precious, did not call PL-AT's phone number listed on all of her filings with the court until she received that phone number after calling PL-AT's mother and her mother called her back and gave her Plaintiff’s telephone number. Further, the Court did not call PL-AT’s mother until 3:15 p.m., after the dismissal already took place. PL-AT was called at 3:28 p.m. by the Court. PL-AT returned the call to the Court at 3:31 p.m. She was informed that her case was already dismissed. The court’s phone call was not in reference to attending the special conference that afternoon, but rather to inform PL-AT that her case had been dismissed (Exhibit T, 6-24-13 phone and caller ID records, 8-5-13 affidavit of Kathleen Filas).

There are too many details to discuss in this Application in regard to the improper and possibly unlawful events that occurred prior to and shortly after the 6-24-13 special conference. For details, refer to pg. 4-17 of PL-AT's 12-20-13 Brief on Appeal to the COA.

In reference to PL-AT's Objections filed to the “proposed order, pg. 3 ¶1 of the Opinion states that Efficient Design “*requested that the trial court strike plaintiff's objection and enter an order of dismissal*” in its 7-16-13 Response. On pg. 5 of the Opinion, the COA claims that



Culpert's Concurrence with EDI's Response also "*requested that plaintiff's objection be stricken and that an order of dismissal be entered by the trial court.*" First, Culpert made no such claim in his concurrence. He did not ask for any relief. His only statement was, "*NOW COMES the Defendant, KEVIN THOMAS CULPERT, by and through his attorneys, LAW OFFICES OF WILLIAMS & BARANSKI, by AHMED M. HASSOUNA, who concurs with Defendant EFFICIENT DESIGN, INC.'S RESPONSE to Plaintiffs Objection to its Proposed Order of Dismissal Without Prejudice filed with this Honorable Court in this matter.*"

EDI's 7-16-13 Response to PL-AT's Objections stated the following as relief: "*WHEREFORE, Defendant Efficient Design, Inc., prays this Honorable Court enter an Order Striking Plaintiffs Objection and Entering Defendant's Order for Dismissal Without Prejudice, or in the Alternate for Plaintiff to obtain a security bond for the reasons outlined in the Response herein.*" By using the choice words of "an order of dismissal," instead of the actual words, "Defendant's Order for Dismissal," the COA Opinion gives the appearance that nothing had even been decided or ordered by the court at this time, when the reality was that the case was already dismissed *sua sponte* on 6-24-13 at the special conference. The "Defendant's Order for Dismissal," referred to in DF-AE's 7-16-13 Response is the attached "Proposed Order of Dismissal," was a 7-day Order. Under 2.602(B)(3), the only objections that can be made to a 7-day order is if did not comport with the court's decision or if it involved the accuracy or completeness of the judgment. In other words, a 7-day order is issued after a decision by the court is already made, in this case, the decision to dismiss PL-AT's case *sua sponte* at the 6-24-13 special conference. The COA's quoted statement above gives the appearance that DF-AE was requesting an order of dismissal be entered, as if the order had not already been made. The decision/order to dismiss the case was made on 6-24-13, but the written order that explained that

decision had not been entered yet, because that was the 7-day order that PL-AT was misled to believe by both the court and the DF-AEs that she could reverse the dismissal of her case by objecting to the 7-day Order, which was not possible under court rules.

In accordance with MCR 2.602(B)(3), the DF-AE was supposed to provide a notice to PL-AT along with the proposed order, explaining to PL-AT “*that it will be submitted to the court for signing if no written objections to its accuracy or completeness are filed with the court clerk within 7 days after service of the notice.*” By not including the required notice with the Order, PL-AT was led to believe she could reverse the dismissal by objecting to the proposed order she was served with by Mr. Wright, and did not understand she could only object to accuracy or completeness (Exhibit U, EDI’s 6-25-13 Notice of Submission of Seven-Day Order).

Pg. 3 ¶1 of the Opinion continues, “*Culpert filed a concurrence in Efficient Design’s response to plaintiff’s objection to the proposed order of dismissal.*” In fact, this statement appears twice in the Opinion, except that it begins, “*Culpert also filed a concurrence.*” Let it be clear that Culpert should not have been concurring with anything since he had no objections to receiving PL-AT’s records via form MC 315. This was PL-AT’s Issue VI, presented in PL-AT’s 12-20-13 Brief on Appeal to the COA, that Culpert’s case should not have been dismissed since PL-AT complied with Culpert’s Motion to Compel. Since Culpert’s attorney did not appear at the 6-24-13 special conference, it is apparent that he did not have any complaints about the copies of MC 315 authorization forms he received from PL-AT on 6-21-13.

A hearing was held on 8-9-13 to hear PL-AT’s futile objections to the 7-day Order, further leading PL-AT to believe she was being given the opportunity to reverse the dismissal of her case and that her objections were legitimately being heard.

The Court gave the appearance that PL-AT could reverse the dismissal by statements court made on pg. 3 of the 8-9-13 transcript, referenced in ¶2 of pg. 3 of the Opinion, in which the court stated, “*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’ll give you one last chance.*” (Exhibit P, 8-9-13 Transcript) However, it was not possible under MCR 2.602(B) to reinstate the case since a 7-day Order is only a written accounting of a decision/order of the court that has already been made and cannot reverse that decision/order. Objections can only be in regard to the accuracy and completeness, for which PL-AT would have had none, since she was in agreement that her case had been dismissed on 6-24-13.

Plaintiff now understands that her case was dismissed *sua sponte* by Judge Borman at the special conference on 6-24-13 without PL-AT’s knowledge or presence, and all the time and effort Plaintiff spent filing objections was futile since she was tricked into believing that objections to a 7-day order had the potential to reverse the dismissal, when in reality, all PL-AT could have objected to was the accuracy and completeness of the order. The dismissal had already taken place on 6-24-13. The 7-day Order was merely a record of what happened that day and could not reverse the decision to dismiss PL-AT’s case, as she was led to believe. PL-AT now realizes she should have filed a Motion for Reconsideration of the 6-24-13 decision/order to dismiss her case if she wanted to reverse the dismissal.

The COA Opinion continues to reinforce the illusion that the 8-9-13 hearing had the potential to reverse the dismissal when it states on pg. 3 ¶ 2 in regard to the conclusion of the 8-9-13 hearing on PL-AT’s Objections to the 7-day Order of Dismissal, labeled as a “Proposed

Order” by DF-AE, “*Thereafter, the trial court dismissed the case.*” This statement is erroneous since the case was already dismissed on 6-24-13, not 8-9-13.

Clearly, this sham of a hearing on 8-9-13 is a big deal or it would not even require discussion in the Opinion. In fact, now Mr. O’Malley, Efficient Design, has brought up this matter on pg. 27 of his 3-30-15 Answer to PL-AT's Application to Appeal to the MSC the 11-25-14 Order. In an attempt to cover up the true events in regard to the proposed 7-day Order and associated hearing on 8-9-13, O’Malley tells an egregious lie when he refers to PL-AT’s Objections that were filed to Mr. Wright’s 7-day Order of Dismissal, as PL-AT’s “Motion to Reinstate the Case”! (Exhibit V, pg. 27 of Michael O’Malley’s 3-30-15 Answer to PL-AT's MSC Application). Plaintiff did not file a Motion to Reinstate the Case. As explained above, PL-AT’s objections to the 7-day order could not have reinstated the case. It is highly disturbing Mr. O’Malley would make false claims that could easily be verified by looking at the case file!

Another very disturbing fact is that in the discussion of the 8-9-13 hearing appearing in the COA’s Opinion, it is never mentioned that PL-AT was being ordered to re-do the process of disclosing medical records from over 20 health care providers, to Mr. Wright, using his own personal forms, after records were already in the process of being disclosed to him via the MC 315 forms, and he had received records from some providers already by the time of the 8-9-13 hearing (Exhibit J, letters from Letters from health care providers verifying that records were sent to Mr. Hassouna and Mr. Wright).

## **CONCLUSION AND RELIEF REQUESTED**

The COA’s issuance of a 3-10-15 Opinion that differs in the reasons for upholding the dismissal of the case from the 11-25-14 Order that actually upheld the dismissal of PL-AT's entire case is clearly erroneous since a case cannot be dismissed (or a dismissal upheld) on two

different dates, for different reasons. Only the first order to uphold the dismissal can be considered valid. The second Order (Opinion) would be meaningless.

Since the 3-10-15 Opinion clearly cannot be considered legitimate, PL-AT requests that the 3-10-15 Opinion be stricken from the record, discounted, rejected, disregarded, amended, end-noted or otherwise remedied by the MSC, so that PL-AT can proceed with her appeal of the real Order that truly upheld the dismissal of the case, the 11-25-14 Order to grant DF-AE's Motion to Affirm based on the doctrine of collateral estoppel, for which she has applied for leave to appeal to the MSC in an Application dated 3-10-15, which has been assigned MSC Docket No. 151198. To have two appeals pending in relation to the same case, for two different Orders upholding dismissal for different reasons is ludicrous and unreasonable. Clearly, only the 11-25-14 order is valid. The 3-10-15 Opinion must be disposed of in the proper manner by the MSC.

**STATEMENT IN SUPPORT OF ORAL ARGUMENT**

PL-AT urges this Court to grant oral argument in this case because the issue presented is a matter of significance to the jurisprudence of the State of Michigan. Whether Plaintiffs have the right to use MC 315 as provided for under MCR 2.314(C)(1)(d) is a very important issue, that is clearly one that neither the circuit court or the court of appeals wants to address. Oral argument will assist this Court to fully understand the issue since this is a very unusual situation.

4-21-15  
Date

signature redacted  
\_\_\_\_\_  
Tamara Filas  
6477 Edgewood  
Canton, MI 48187  
(734) 751-0103  
e-mail redacted

# Exhibit A

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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TAMARA FILAS,

Plaintiff-Appellant,

v

KEVIN THOMAS CULPERT and EFFICIENT  
DESIGN, INC.,

Defendants-Appellees.

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UNPUBLISHED

March 10, 2015

No. 317972

Wayne Circuit Court

LC No. 13-000652-NI

Before: GLEICHER, P.J., and CAVANAGH and FORT HOOD, JJ.

PER CURIAM.

Plaintiff appeals as of right an order dismissing her third-party no-fault insurance case against defendants, Kevin Thomas Culpert and Efficient Design, Inc., after she refused to provide signed authorizations for the release of her records during discovery. We affirm.

In January 2013, plaintiff filed this action alleging that, in January 2010, she sustained serious injuries when she was rear-ended by a vehicle being driven by Culpert in the course of his employment with Efficient Design. In March 2013, plaintiff terminated her attorney and filed a "motion for continuance," requesting the trial court to grant her extensions of time to complete discovery requested by defendants and to extend the scheduling order dates. At oral argument on plaintiff's motion, which was heard in May, the trial court advised plaintiff that her deposition and other discovery requests would be stayed for 30 days or until an attorney filed an appearance on her behalf, whichever was sooner. During the course of that hearing, the trial court referenced plaintiff's refusal to sign record release authorizations that had been requested by defendants, noting that the case had already been dismissed once because of her refusals and "[t]here'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 have to do." The court further advised plaintiff: "This is what the law requires. I understand you don't want to do it, but in order to bring such a lawsuit, you have to do it." Plaintiff responded: "But I'm being asked to give records to a third party, not just the attorneys. I'm being asked to give them to this deposition service, and I just wanted to clarify that it was just going to the one attorney." The court responded: "It goes through Record Copy Service. They don't care about your medical records, but that's the way it's done, okay. That's the way it's done. That way they know they get all your records and that you're not keeping any back."

Thereafter, on May 3, 2013, the trial court entered an order denying plaintiff's motion for continuance, but staying discovery for 30 days or until plaintiff retained new counsel.

In May 2013, Culpert and Efficient Design filed re-notice of hearing for their previously filed motions to compel certain discovery that had been requested from plaintiff in February 2013. In June 2013, plaintiff, *in propria persona*, responded to their motions to compel. In her answer to Efficient Design's motion, plaintiff contended "that until it is established through discovery that Efficient Design is liable for harm caused by Kevin Culpert while in the course and scope of his employment, Plaintiff should not be required to release her medical information to Defendant, Efficient Design Inc." Plaintiff requested 28 days "to prepare interrogatories and requests for admissions for [defendant] to attempt to determine the liability of Efficient Design Inc., in the third party tort case." Plaintiff further argued that she "does not believe it is reasonable for the Court to require her to provide medical records to Efficient Design Inc., a party that has not yet admitted any responsibility in the case."

During oral arguments on the motions held on Friday, June 21, 2013, counsel for Efficient Design advised the court that plaintiff continued to refuse to provide signed authorizations releasing her records, as she had since 2010. Plaintiff responded that she had requested more time "to investigate whether or not they're even liable because right now they're not even admitting that Mr. Culpert - - that they are the employer of Mr. Culpert." Plaintiff also argued that she should not have to give records to a party that has not admitted any liability. The trial court advised plaintiff that her argument had no merit and that if she did not provide the requested authorizations, the case would be dismissed. Plaintiff responded: "Okay, it's just that Efficient Design hasn't said they were liable, so." Again the trial court advised plaintiff that she had to provide the requested authorizations and asked her if she was going to do so. Plaintiff said that she would provide the authorizations and, although the trial court wanted her to do so while they were in court, plaintiff declined saying that "it takes a lot more time than that." Thereafter, the trial court advised plaintiff that if defense counsel did not get the requested authorizations—without amendment or alteration—by Monday, either outside of court or at a 2:00 p.m. court hearing, her case would be dismissed.

On Monday, June 24, 2013, oral argument on defendants' motions was continued with regard to plaintiff's refusal to provide the requested authorizations. Counsel for Efficient Design advised the trial court that plaintiff had stopped by his office and provided only about half of the requested authorizations. And they were altered. Plaintiff was not in court, but the court noted on the record that plaintiff knew about the hearing and an attempt to reach her by telephone was unsuccessful. Thereafter, the trial court dismissed the case without prejudice and requested that a seven-day order be submitted.

Subsequently, plaintiff filed an objection to Efficient Design's proposed order of dismissal without prejudice, arguing that she did not receive an email by 5:00 p.m. on the date of the first hearing, June 21, with the desired authorizations, so she filled out some SCAO medical authorizations and hand-delivered them to defense counsel on Monday, June 24, before the 2:00 p.m. court hearing. She subsequently checked her email and found that defendant had, in fact, emailed her the requested authorizations on June 21, but it was after 5:00 p.m. Plaintiff denied that she altered the authorizations or that she failed to provide the requested authorizations.



Efficient Design responded to plaintiff's objection, arguing that the authorizations it sought were sent by email to plaintiff as directed by the court, and plaintiff failed to check her email for those expected authorizations. Instead, plaintiff filled out some SCAO forms, which are not accepted by many medical providers, and she limited the authorizations to records for specific treatment dates. Further, plaintiff did not provide numerous other authorizations that had been requested and, to date, still had not provided the authorizations. Efficient Design noted that plaintiff's first-party no-fault insurance lawsuit had been dismissed because of her failure to provide signed authorizations, and requested that the trial court strike plaintiff's objection and enter an order of dismissal.<sup>1</sup> Culpert filed a concurrence in Efficient Design's response to plaintiff's objection to the proposed order of dismissal.

On August 9, 2013, oral arguments were held on plaintiff's objection to the proposed order of dismissal. At the beginning of the hearing, the trial court advised plaintiff that if she wanted to proceed with her case and have the court reinstate her case, she would have to sign the authorizations that were there in court at that time. Plaintiff responded: "I have a problem with some of the clauses." The trial court advised plaintiff that it had already ruled on the language of the authorizations and that this was her last chance; if she signed the authorizations, her case would be reinstated and, if she did not, the case would be dismissed. Plaintiff again responded: "I have some problems with some of the clauses they're asking for in the forms." The trial court, again, requested that plaintiff sign the authorizations and plaintiff refused, stating: "Not for some of the things that they're asking." Thereafter, the trial court dismissed the case.

Plaintiff then filed this appeal. Culpert filed a motion to affirm pursuant to MCR 7.211(C)(3), arguing that many of the issues raised by plaintiff in this appeal were raised and rejected by this Court in plaintiff's appeal related to the dismissal of her first-party insurance case. This Court granted the motion in part, holding that this appeal could proceed only with respect to Issue IV, regarding the motion to compel, and Issue V, regarding the dismissal of the case against both defendants. *Filas v Culpert*, unpublished order of the Court of Appeals, entered November 25, 2014 (Docket No. 317972). And plaintiff's motion for reconsideration was denied. *Filas v Culpert*, unpublished order of the Court of Appeals, entered January 27, 2015 (Docket No. 317972). Accordingly, we first turn to Issue IV.

Plaintiff argues that the trial court erred when it ordered her to sign record release authorizations provided to her by Efficient Design after the June 21, 2013 hearing on its motion to compel discovery without first requiring Efficient Design to file a second motion to compel discovery. We disagree.

"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). Plaintiff alleged in her complaint that she "sustained injuries or aggravation of pre-existing conditions constituting serious impairment of a body function." Those alleged

---

<sup>1</sup> See *Filas v MEEMIC Ins Co*, unpublished opinion per curiam of the Court of Appeals, issued October 14, 2014 (Docket No. 316822).

injuries were “to her head, neck, back and other parts and portions of her body all of which did cause her pain, suffering and limitations in use, function and enjoyment.” Plaintiff also alleged that she suffered “[a] work loss and loss of earnings and earning capacity.” And plaintiff alleged that “some or all of the injuries [she] sustained are permanent.” Because of these claimed injuries, plaintiff sought a judgment against defendants “in excess of \$25,000.00 plus costs, fees and interest.”

Plaintiff apparently believes, however, that defendants are required to “simply take her word for it” that she suffered these purported numerous and egregious injuries. But as the trial court repeatedly explained to plaintiff, she is wrong. Plaintiff’s proffered reasons for refusing to sign record release authorizations included that: the requested records would be going to a third-party for copying; Efficient Design did not admit liability; she had “a problem with some of the clauses” on the authorizations; and she did not want some of her records provided to defendants. None of these reasons have merit. Again, defendants are entitled to “liberal discovery of any matter, not privileged, that is relevant” to defending against and disproving plaintiff’s numerous allegations made in support of her request for a substantial judgment in her favor. See *id.* Under the circumstances of this case, the trial court’s decision to compel plaintiff to comply with the discovery requested, i.e., to sign record release authorizations, without requiring Efficient Design to file a second motion to compel discovery did not constitute an abuse of discretion.<sup>2</sup> See *Ghanam v Does*, 303 Mich App 522, 530; 845 NW2d 128 (2014).

Next, in Issue V, plaintiff argues that the trial court erred when it dismissed her case against both defendants because only one of the attorneys for Efficient Design requested dismissal as a discovery sanction. We disagree.

“Discovery sanctions are reviewed for an abuse of discretion.” *Dean v Tucker*, 182 Mich App 27, 32; 451 NW2d 571 (1990). An abuse of discretion occurs when the trial court’s decision results in an outcome falling outside the range of reasonable and principled outcomes. *Maldonado v Ford Motor Co*, 476 Mich 372, 388; 719 NW2d 809 (2006).

Plaintiff argues that her “case involves three separate insurance companies and three separate insurance policies---one for Kevin Culpert and two for Efficient Design.” She states: “Plaintiff-Appellant does not believe her entire case against all three insurance companies representing both Kevin Culpert and Efficient Design should have been be dismissed.” Plaintiff argues that only one attorney for Efficient Design requested that her case be dismissed, but not the other attorney representing Efficient Design and not Culpert’s attorney so her case should not have been dismissed.

First, Efficient Design is a named defendant in this case, not an insurance company. That is, plaintiff sued Efficient Design. Efficient Design was entitled to conduct discovery. Because plaintiff repeatedly refused to provide the requested record release authorizations, Efficient Design sought dismissal of plaintiff’s claim against it. Second, Culpert is a named defendant in

---

<sup>2</sup> We note that plaintiff does not even claim on appeal that she would, in fact, have signed record release authorizations if they were the subject of a second motion to compel.

this case, not an insurance company. Culpert's attorney repeatedly requested that the trial court dismiss plaintiff's case "for her continued refusal to engage in meaningful discovery" and, as plaintiff notes in her response to Culpert's motion to compel discovery, Culpert also requested signed record release authorizations be provided by plaintiff. Further, at oral argument conducted on May 2, 2013, Culpert's attorney requested signed authorizations from plaintiff. At oral argument conducted on June 21, 2013, Culpert's attorney again requested signed authorizations from plaintiff. Culpert also filed a concurrence in Efficient Design's response to plaintiff's objection to the proposed order of dismissal, which requested that plaintiff's objection be stricken and that an order of dismissal be entered by the trial court. Accordingly, plaintiff's argument that her case should not have been dismissed as a discovery sanction because only one attorney for Efficient Design requested its dismissal is without merit.

Affirmed.

/s/ Elizabeth L. Gleicher  
/s/ Mark J. Cavanagh  
/s/ Karen M. Fort Hood

# Exhibit B

**Court of Appeals, State of Michigan**

**ORDER**

Tamara Filas v Kevin Thomas Culpert

Docket No. 317972

LC No. 13-000652-NI

Michael J. Riordan  
Presiding Judge

Christopher M. Murray

Karen M. Fort Hood  
Judges

---

The motion to affirm pursuant to MCR 7.211(C)(3) is GRANTED, limited to those issues that were resolved by this Court's opinion in *Filas v MEEMIC Insurance Company*, unpublished per curiam opinion of the Court of Appeals (Docket No. 316822, issued October 14, 2014). The instant appeal may proceed only with respect to Issue IV, regarding the motion to compel, and Issue V, regarding the dismissal of the case against both defendants Culpert and Efficient Design.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

NOV 25 2014

Date

  
Chief Clerk

**Court of Appeals, State of Michigan**

**ORDER**

Tamara Filas v Kevin Thomas Culpert

Docket No. 317972

LC No. 13-000652-NI

Michael J. Riordan  
Presiding Judge

Christopher M. Murray

Karen M. Fort Hood  
Judges

---

The Court orders that the motion for plaintiff-appellant to file replies to the answers to the motion for reconsideration is granted. The reply to the answer filed by defendant-appellee Kevin Thomas Culpert and the reply to the answer filed by defendant-appellee Efficient Design, Inc. are accepted.

It is further ordered that the motion for reconsideration is DENIED.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

**JAN 27 2015**

Date

Chief Clerk

# Exhibit C

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)

13-000652-NI

FILED IN MY OFFICE  
WAYNE COUNTY CLERK  
8/9/2013 2:25:58 PM  
CATHY M. GARRETT

At a session of said Court, held in the Coleman A. Young Municipal  
Detroit, Wayne County, Michigan on 8/9/2013

Present: HONORABLE SUSAN D. BORMAN  
CIRCUIT COURT JUDGE

Precious Smith

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.

8/9/2013

SDB

/s/ Susan D. Borman  
Honorable Susan D. Borman  
Circuit Court Judge

James Wright (967613)  
Defendant Attorney #

Michael O'Malley  
(959108)

Plaintiff Attorney #

Just O'Leary



# Exhibit D

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

**RESPONSE:**

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

**RESPONSE:**

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

**RESPONSE:**

**Request for Production of Documents to Plaintiff**

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

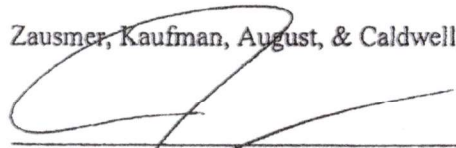
**RESPONSE**

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

**RESPONSE**

\*\*\*Defendants will pay reasonable photocopying costs for the documents produced.\*\*\*

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

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

Dated: February 7, 2013

# Exhibit E

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](mailto: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](mailto: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](mailto: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:

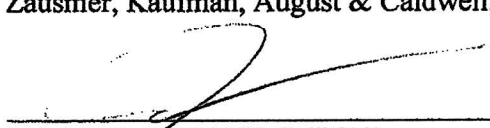
1. Please verify correct addresses, Social Security number, date of birth, execute and return to the law offices of Zausmer, Kaufman, August & Caldwell, P.C., Authorizations for Release of Information directed to the following:

- 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 F

6477 Edgewood  
Canton, MI 48187  
June 24, 2013

Mr. James Wright  
31700 Middlebelt Rd., Suite 150  
Farmington Hills, MI 48334

Dear Mr. Wright,

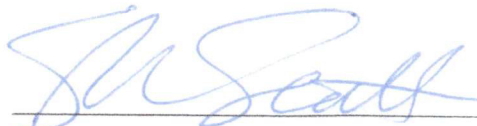
Attached please find copies of fully executed authorizations to health care providers. Copies of certificates of mailing are attached to verify mailing on June 21, 2013.

Yours truly,

signature redacted

Tamara Filas

Received by:



Date/time:

6-24-13 11:24 AM



# Exhibit G

**FW: Filas: 3RD PARTY RELEASE.7-19-2012**

Terry Cochran &lt;TCochran@cochranfoley.com&gt;

Thu, Jul 19, 2012 at 9:30 AM

To: e-mail redacted

Dear Ms Filas,

Please find attached Def Culpert's release consistent with his offer to settle. After I received the release, I called Attorney Hassouna and asked if he had spoken to his Clt about the other two conditions outlined in my prior e-mail. Attorney Hassouna indicated that he had draft answers to our interrogatories and that Mr. Culpert was on his way to work but was not in the scope and course of his employment at the time of the accident. In addition, he is checking to make sure that Mr. Culpert is the sole owner of the vehicle.

Thank you,

Terry L. Cochran  
Cochran, Foley & Associates, P.C.  
15510 Farmington Road  
Livonia, Michigan 48154  
(734) 425-2400  
tcochran@cochranfoley.com

---

**From:** Ahmed M Hassouna [mailto:[Ahmed\\_M\\_Hassouna@Progressive.com](mailto:Ahmed_M_Hassouna@Progressive.com)]  
**Sent:** Thursday, July 19, 2012 9:18 AM  
**To:** Terry Cochran  
**Subject:** Filas: 3RD PARTY RELEASE.7-19-2012

Terry:

Please see attached. Please advise as to whether your client will execute the attached Release in order to fully resolve this matter. Thanks.

Best,

-A

Ahmed M. Hassouna, Esq.

Law Offices of Mark E. Williams

Salaried Employees of Progressive Casualty Insurance Company

## RELEASE

For the Sole Consideration of TWENTY THOUSAND AND 00100 (\$20,000.00) DOLLARS, the receipt and sufficiency whereof is hereby acknowledged, the undersigned hereby releases and forever discharges KEVIN THOMAS CULPERT, his heirs, executors, administrators, agents and assigns claimed liable or who might be claimed to be liable, none of whom admit any liability to the undersigned but all expressly deny any liability, from any and all claims, demands, damages, actions, causes of action or suits of any kind or nature whatsoever, and particularly on account of all injuries, known and unknown, both to person and property, which have resulted or may in the future develop from an accident which occurred on or about February 19, 2010 in the City of Romulus, County of Wayne, State of Michigan.

Nothing in this release shall be construed as having any effect on any claims that undersigned releasor may have for first-party no fault benefits under the Michigan No Fault Act, MCL § 500.3101, *et seq.*

**THE UNDERSIGNED HEREBY DECLARES AND REPRESENTS** that the injuries sustained are or may be permanent or progressive; and that recovery is or may be uncertain or indefinite. In making this Release it is understood and agreed that the undersigned relies wholly upon his own judgment, belief and knowledge of the nature, extent, effects and duration of said injuries and liability. This release is made without reliance upon any statement or representation of the party or parties hereby released, their representatives or by any physician/surgeon that examined undersigned on their behalf.

Undersigned hereby declares that the terms of this settlement have been completely read and are fully understood and voluntarily accepted for the purpose of making a full and final compromise adjustment and settlement of any and all

claims, disputed or otherwise, on account of the injuries and damages above mentioned, and for the express purpose of precluding forever any further or additional claims arising out of the aforesaid accident

Undersigned hereby accepts draft or drafts as final payment of the consideration set forth above.

I have hereunto set my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 201\_.

X \_\_\_\_\_  
TAMARA FILAS, Plaintiff

Subscribed and sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 201\_.

\_\_\_\_\_  
NOTARY PUBLIC  
\_\_\_\_\_ County, Michigan  
My Commission Expires \_\_\_\_\_

**IN THE PRESENCE OF TERRY L. COCHRAN, Attorney for the signing party to this Release, who has fully explained the terms of this agreement and acknowledges understanding by the signing party as to the finality of the settlement and the terms thereof against KEVIN THOMAS CULPERT.**

\_\_\_\_\_  
TERRY L. COCHRAN (P35890)  
Attorney for Plaintiff

# Exhibit H

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, June 21, 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  
19 Farmington Hills, MI 48334  
(248) 851-4111

20 For the Defendant: AHMED HASSOUNA, P67995  
(Kevin Culpert) Vandever Garzia  
21 1450 W. Long Lake Road, Suite 100  
22 Troy, MI 48098  
(248) 312-2940

13 JUL - 31 4:17  
THIRD JUDICIAL  
CIRCUIT COURT  
OFFICE OF  
COURT REPORTING  
CIVIL DIVISION

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TABLE OF CONTENTS

PAGE

1  
2  
3  
4  
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6  
7  
8  
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WITNESS:

None

EXHIBITS:

None

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Detroit, Michigan  
Friday, June 21, 2013  
Morning session - 9:54 a.m.

- - -

THE CLERK: Filas.

THE COURT: Okay, is everybody here on  
this? Okay, good morning.

MS. FILAS: Good morning.

THE COURT: Okay, whose motion is this?

MR. WRIGHT: It is mine, Your Honor.

THE COURT: Go ahead.

COURT REPORTER: And you are who?

MR. WRIGHT: I am James Wright. I  
represent Efficient Design.

THE COURT: Yeah, please, everybody  
identify yourself for the record.

MR. WRIGHT: I'm James Wright and I  
represent Efficient Design.

MS. McGRATH: Jennifer McGrath, co-counsel  
for Efficient Design.

MS. McGRATH: Good morning.

THE COURT: You're co-counsel?

MS. McGRATH: Yes, Your Honor.

THE COURT: Why are you up here too?

MS. McGRATH: There's two insurance



1 policies.

2 MR. WRIGHT: There's a general automobile  
3 liability policy and there's a CGL policy, so there's  
4 two different --

5 THE COURT: What is CGEL for?

6 MR. WRIGHT: CGL.

7 THE COURT: What is it?

8 MR. WRIGHT: It's the commercial liability  
9 portion of their policy. They have an auto and  
10 commercial.

11 THE COURT: What does CGL stand for?

12 MR. WRIGHT: Commercial General Liability.

13 THE COURT: I don't like abbreviations.

14 MR. WRIGHT: Sorry, Your Honor.

15 THE COURT: I don't know what they are.

16 MS. McGRATH: I'm Ahmed Hassouna for Mr.  
17 Culpert, Your Honor. Thank you.

18 THE COURT: You're what?

19 MS. McGRATH: For Mr. Culpert.

20 THE COURT: Yeah, but you said I'm a -- I  
21 can't understand what you're saying.

22 MR. HASSOUNA: Ahmed Hassouna, Ahmed, last  
23 name Hassouna.

24 THE COURT: Oh, that's your name.

25 MR. HASSOUNA: H-a-s-s-o-u-n-a, yes, Your

1 Honor.

2 THE COURT: You're representing whom?

3 MR. HASSOUNA: Mr. Culpert, Your Honor.

4 THE COURT: Okay, and he's the individual  
5 defendant?

6 MR. HASSOUNA: That's correct.

7 Third party defendant?

8 MR. HASSOUNA: Yes, Your Honor.

9 THE COURT: And Efficient Design is his  
10 employer, I'm guessing?

11 MR. HASSOUNA: Yes, Your Honor.

12 THE COURT: Okay, all right, so this is  
13 your motion, go ahead.

14 MR. WRIGHT: This is just a general basic  
15 motion to compel, Your Honor. I sent request for  
16 admission, interrogatories and request for production  
17 of documents.

18 THE COURT: Okay.

19 MR. WRIGHT: The request and admissions are  
20 long overdue. They were sent back in February, so I  
21 think they're due in the middle -- but the real  
22 problem we have, I got interrogatory answers this  
23 morning.

24 THE COURT: Yeah, how many interrogatories  
25 are there?

1 MR. WRIGHT: Probably --

2 THE COURT: A hundred?

3 MR. WRIGHT: No, there's not a 100. There  
4 are --

5 THE COURT: I think we should have a  
6 Federal system.

7 MR. WRIGHT: I would agree with you, Your  
8 Honor.

9 THE COURT: Well, then you can do that. It  
10 is in within your power to do that.

11 MR. WRIGHT: They're 57.

12 THE COURT: Okay, so you got them this  
13 morning and you've looked at them?

14 MR. WRIGHT: I've looked at them and the  
15 problem is that I think what we've been having going  
16 on with this case since when I was involved back to  
17 2010 is that Ms. Filas is refusing to provide signed  
18 medical authorizations. She has revealed 27 treating  
19 in this milage log.

20 THE COURT: Right, and you know you have to  
21 do that, Ms. Filas. So you know you're going to  
22 leave the Court no alternative but to dismiss this  
23 case too.

24 MS. FILAS: Well, in my motion though I  
25 asked that I could have time to investigate whether

1 or not they're even liable because right now they're  
2 not even admitting that Mr. Culpert -- that they are  
3 the employer of Mr. Culpert.

4 THE COURT: We don't wait for liability.  
5 No, no. That's not the way --

6 MS. FILAS: I shouldn't have to give my  
7 records to a party that may not even be party to this  
8 case though. They haven't --

9 THE COURT: No, they are party to this  
10 case.

11 MS. FILAS: But they haven't admitted any  
12 liability.

13 THE COURT: They don't -- that's not how it  
14 works. You have a choice, you either do it or no  
15 case. Now, we've been through this before with your  
16 first party case. Nobody cares about your medical  
17 records.

18 MS. FILAS: Well, I understand that they  
19 have to go to the first party and have them all  
20 filled out for Mr. Hassouna as well.

21 THE COURT: Either do it or no case, okay.

22 MS. FILAS: Okay, it's just that Efficient  
23 Design hasn't said they were liable, so.

24 THE COURT: Do it or no case.

25 MS. FILAS: Okay.

1 THE COURT: Now are you going to sign the  
2 authorizations or not?

3 MS. FILAS: I will fill out authorizations  
4 for them.

5 THE COURT: Now, today. Sit down and do  
6 it. We'll recall this case if necessary.

7 MR. WRIGHT: I have authorizations.

8 MS. FILAS: It takes a lot more time than  
9 that.

10 MR. WRIGHT: I can have my office fax them  
11 over. But I just found out who the --

12 THE COURT: Okay, I will adjourn this until  
13 Monday.

14 MR. WRIGHT: Okay.

15 THE COURT: If he does not get those  
16 authorizations by Monday or you can come back Monday  
17 at 2 o'clock, and you can come back with the  
18 authorizations. No game playing, Ms. Filas.

19 MS. FILAS: I'm not trying to --

20 THE COURT: Either do it or I'm going to  
21 dismiss the case on Monday. It's simple.

22 MR. WRIGHT: Okay, I need a number or fax  
23 number or e-mail to send the authorizations too, Your  
24 Honor, for her to sign.

25 THE COURT: Okay, would you please give him

1           that.

2                   MS. FILAS:   Sure.   It's F-I-L-A --

3                   THE COURT:   Okay, you can do that off the  
4           record.   Are we done?

5                   MR. HASSOUNA:   Your Honor, I would simply  
6           ask for the same relief before you do Efficient  
7           Design for Mr. Culpert.

8                   MS. FILAS:   I have his though.

9                   THE COURT:   Excuse me, what same relief?

10                  MR. HASSOUNA:   I would like authorizations  
11           as well and I would like the answers to  
12           interrogatories.

13                  THE COURT:   Okay, who are you representing?

14                  MR. WRIGHT:   I represent Efficient Design.

15                  MR. HASSOUNA:   I represent Mr. Culpert.

16                  THE COURT:   Well, you're the same party.

17                  MR. WRIGHT:   No, Your Honor.

18                  THE COURT:   He's the employee; he's the  
19           employer.

20                  MR. WRIGHT:   Well, we're not --

21                  THE COURT:   It's vicarious liability.

22                  MR. WRIGHT:   Well, we're not -- but, yeah,  
23           you're right, Your Honor.

24                  MS. FILAS:   So they have two separate  
25           motions.   But I have everything for Mr. Hassouna.

1 THE COURT: Ma'am, just a second.

2 MS. FILAS: Okay.

3 THE COURT: I cannot listen to more than  
4 one person at a time and I'm asking them questions.  
5 Okay, so was he driving, this Mr. --

6 MR. HASSOUNA: Mr. Culpert.

7 THE COURT: Culpert. Was he on the job?

8 MR. WRIGHT: No, not according to us. He  
9 was driving his own private vehicle on the way to  
10 work. There's an allegation that he was on his cell  
11 phone talking to his employer which hasn't been  
12 verified which is the theory.

13 THE COURT: Well, that should be very easy  
14 to verify. In all this time why hasn't it been  
15 verified yet?

16 MR. WRIGHT: Well, because this case just  
17 got off stay, Your Honor, and we haven't been able to  
18 take any depositions.

19 THE COURT: Stay?

20 MR. WRIGHT: It was stayed, yes.

21 THE COURT: No, I didn't stay it. It  
22 wasn't stayed.

23 MS. McGRATH: He stayed the discovery.

24 THE COURT: What?

25 MR. WRIGHT: Yes, Your Honor, it was

1 stayed.

2 THE COURT: No, it might have been stayed  
3 for a month or something, but this case has been  
4 pending since when?

5 MR. WRIGHT: I came into the case in  
6 January.

7 THE COURT: Are you saying that I stayed  
8 it?

9 MR. WRIGHT: Yes.

10 THE COURT: What?

11 MR. WRIGHT: Yes, Your Honor.

12 THE COURT: No, there's an '11 case. I see  
13 that, but this isn't an '11 case. This is a '13  
14 case. So it was stayed?

15 MR. WRIGHT: The last time we were here,  
16 Your Honor, it was my motion to compel and you stayed  
17 it to allow Ms. Filas to obtain successor counsel  
18 which she has yet to do.

19 THE COURT: Okay. But that was when, when  
20 was the last time you were here? It wasn't that long  
21 ago, and there was a time before that. In any event,  
22 that's not something that she's involved in. All you  
23 have to do is check the cell phone records to see if  
24 he was at the time talking on the phone to his  
25 employer.



1 MR. WRIGHT: We have this, Your Honor.  
2 We've been working. We need to take his deposition.  
3 That's really it. We were waiting for the stay to  
4 get lifted and getting authorizations. We're trying  
5 to move forward on this. That's why we're here.

6 THE COURT: Okay, I'll see you Monday.

7 MR. WRIGHT: Okay.

8 MS. FILAS: I also had motions too to be  
9 heard.

10 THE COURT: For what?

11 MS. FILAS: One to vacate the Protection  
12 Order that was in place from last year. I couldn't  
13 get clarification from the other attorneys.

14 THE COURT: What Protection Order?

15 MS. FILAS: The one that was filed in the  
16 case the first time it was originally filed back  
17 in --

18 THE COURT: Well, may I see that. Do you  
19 know what she's talking about?

20 THE CLERK: That's up next Friday.

21 THE COURT: Oh, yeah, your motions are up  
22 next Friday.

23 MS. FILAS: Why are they next Friday when I  
24 got the praecipe approved. It's supposed to be  
25 today. It says on the Register of Actions they're

1 both being heard today.

2 THE COURT: Does it?

3 THE CLERK: One was just received yesterday  
4 or the day before.

5 THE COURT: When did you file it?

6 MS. FILAS: Last week. I noticed the  
7 hearing for today.

8 THE COURT: Well, I can hear it today. I  
9 can --

10 MS. FILAS: And they're already answered.

11 THE COURT: Don't keep me talking over me.

12 MS. FILAS: Sorry.

13 THE COURT: I can hear it today.

14 MS. FILAS: Okay.

15 THE COURT: Have you guys seen these  
16 motions?

17 MR. WRIGHT: Yes, Your Honor.

18 MR. HASSOUNA: Yes, Your Honor.

19 THE COURT: Let's deal with all of them,  
20 okay.

21 LAW CLERK: We had them for next Friday.

22 THE COURT: I know. We're going to do them  
23 today.

24 LAW CLERK: Okay.

25 THE COURT: Okay, we'll recall this case

1 when I get a chance I'll look at them. I don't think  
2 they were -- I think I've already looked at them  
3 actually, and I don't think they're very difficult.

4 MS. McGRATH: If I may just to make this  
5 easy on us on Monday, can we agree today that there  
6 can be no amendments to the authorizations?

7 THE COURT: What do you mean amendments?

8 MS. McGRATH: During the --

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

13 MS. McGRATH: Thank you, Your Honor.

14 MR. WRIGHT: Thank you, Your Honor.

15 MR. HASSOUNA: Thank you, Your Honor.

16 (Off the record - 10:10 a.m.)

17 (On the record - 11:10 a.m.)

18 THE COURT: Filas versus Culpert.

19 Okay, we're going to entertain the motions,  
20 Plaintiff's motions today. Okay, one of them -- and  
21 I'm going to place you under oath, Ms. Filas since  
22 you're not an attorney. You do solemnly swear that  
23 any testimony that you give or any statements that  
24 you make are true?

25 MS. FILAS: I do.

1 THE COURT: Okay, one of her motions is to  
2 vacate this Protective Order that wasn't even in this  
3 case. Anybody have an objection to that?

4 MR. WRIGHT: No.

5 MR. HASSOUNA: No.

6 THE COURT: Gone. No Protective Order.  
7 Okay, the other motion was to return discovery that  
8 plaintiff claims that her now fired counsel sent to  
9 defendants which was unsigned by her and which was in  
10 draft form, correct?

11 MS. FILAS: Yes.

12 THE COURT: And by the way, counsel, I  
13 didn't appreciate that sentence in your Reply.

14 MR. WRIGHT: About?

15 THE COURT: Scolding the Court.

16 MR. WRIGHT: Well, Your Honor --

17 THE COURT: For allowing plaintiff a little  
18 time. I didn't appreciate it.

19 MR. WRIGHT: It's not a little time, Your  
20 Honor. This has gone on and on and on.

21 THE COURT: Counsel?

22 MR. WRIGHT: Yes, Your Honor?

23 THE COURT: I didn't appreciate it.

24 MR. WRIGHT: I apologize, Your Honor.

25 THE COURT: Okay.

1 MR. WRIGHT: But at the same time --

2 THE COURT: Up until I read that sentence,  
3 I thought your Response was very good.

4 MR. WRIGHT: Thank you, Your Honor.

5 THE COURT: These are useless. You didn't  
6 sign them and they're drafts, so they don't even have  
7 anything.

8 MS. FILAS: They're still out there and I  
9 think they should be returned to me because I've  
10 never seen them.

11 THE COURT: Can you return them to her?  
12 Just give them back. Do you have them?

13 MR. WRIGHT: In electronic format, yeah,  
14 I'll send them back.

15 THE COURT: Just send them back to her.

16 MR. WRIGHT: Via e-mail?

17 THE COURT: Do you have e-mail?

18 MS. FILAS: Yes, that's fine. He has my  
19 e-mail.

20 THE COURT: Okay, send them back by e-mail.  
21 They don't have any validity, Ms. Filas.

22 MS. FILAS: I understand. I just want to  
23 know what they said.

24 THE COURT: This is useless.

25 MS. FILAS: I've never seen them. My

1 attorney gave them out without my permission.

2 THE COURT: All right, okay. I think that  
3 takes care of everything. I'll see you Monday,  
4 hopefully not. How come you didn't just bring  
5 authorizations with you today knowing that --

6 MR. WRIGHT: Your Honor, I didn't know who  
7 her treaters were until I got the interrogatories  
8 this morning.

9 THE COURT: Okay.

10 MR. WRIGHT: So that's why I didn't.

11 THE COURT: All right. So you're going to  
12 have -- and how many treaters are there?

13 MR. WRIGHT: About 27.

14 THE COURT: Okay, you're going to sign all  
15 those authorizations, otherwise no case.

16 MS. FILAS: Can I fill out something that  
17 says that the Protection Order's been vacated or that  
18 it doesn't exist?

19 THE COURT: Fill out a blank order. It  
20 doesn't exist. It wasn't even in this case.

21 MS. FILAS: I could never get a clear  
22 answer from the other attorneys though whether it was  
23 still in effect or not. I don't know, it would make  
24 me feel better if I had it writing that it didn't  
25 exist anymore just so there wasn't any further

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argument and we don't have to go back looking at the transcript.

THE COURT: Okay.

MS. McGRATH: Your Honor, for the record I will add I have attached e-mails to our Responses and all attorneys did reply back saying that we believe there was no Protective Order in effect because that was a different case. And we have filed the Response asking for sanctions to attempt to stop frivolous motions from being filed wasting judicial resources.

THE COURT: Well, however, I took care of this motion today along with your motion.

MS. McGRATH: Yes, and we appreciate that.

THE COURT: So I'm not going to be awarding any costs for frivolous motions at this point.

Okay, so fill out a blank order declaring that this Protective Order is not in effect in this case.

MS. McGRATH: Thank you, Your Honor.

THE COURT: Okay. And I will initial it and somebody will E-File it, okay.

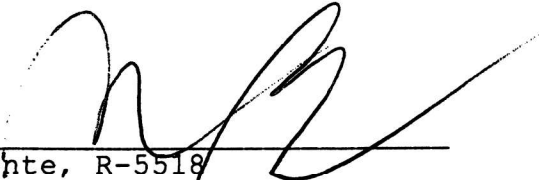
MR. WRIGHT: Thank you.

(Proceeding concluded - 11:20 a.m.)

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, June 21, 2013.



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



# Exhibit I

ruled that this appeal could proceed with respect to Plaintiff's Issue IV, regarding whether the Circuit Court ordered disclosures that were beyond the scope of the Motion to Compel, and Issue V, regarding whether dismissal as to both Defendants was proper where **only Efficient Design had filed a written motion to compel.**<sup>3</sup> Plaintiff filed a Motion for Reconsideration of this Order, and was also granted leave to file a reply relative to same, even though replies to motions in the Court of Appeals are not permitted. Court of Appeals IOP 7.211(B)-2. The Court of Appeals denied Plaintiff's Motion for Reconsideration on January 27, 2015. (Ex. 1, p 3.)

On March 3, 2015, the Court of Appeals held oral argument on the issues remaining in this appeal. (Application, p vi.) At this hearing, Plaintiff took the position that – although the November 25, 2014 Order specifically stated that Plaintiff's Issues IV and V were still on the table – the prior panel's decision to partially affirm effectively disposed of her appeal. Plaintiff was given an opportunity to argue the remaining issues, but declined. Rather, Plaintiff seemingly wanted either (1) to collaterally attack *Filas v MEEMIC* or (2) for this panel to revisit the motion panel's November 25, 2014 ruling. When the March 3, 2015 panel indicated that it was unable to review *Filas v MEEMIC*, and unwilling to review the motion panel's decision in this case, Plaintiff more or less gave up. With no other substantive arguments having been presented by the Plaintiff, and with the panel not having any questions, counsel for Culpert and Efficient Design – being the appellees – rested on their briefs.

---

<sup>3</sup> Culpert had brought an oral motion to compel at the June 21, 2014 hearing (6/21/13 trans, p 9), which is permitted by the second sentence of MCR 2119(A)(1). Culpert also filed a written concurrence in Efficient Design's response when Plaintiff tried to prevent the entry of the Order of Dismissal. (Ex. 1, p 5.)

# 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>
_____	_____	_____
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_____	_____	_____
_____	_____	_____
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_____	_____	_____
_____	_____	_____
_____	_____	_____

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  
TUSCUMPHATI, 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](http://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. rcvd-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.

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- 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?

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**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.

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- 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?

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**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.

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- 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?

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**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.

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- 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

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**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]

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.

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- 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?

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→ *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.

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- 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?

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*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.*

**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>
<u>Mr. Ahmed Nassar</u>	<u>6/28/13</u>	<u>see enclosed package of information mailed</u>
<u>Mr. James Wright</u>	<u>6/28/13</u>	<u>see enclosed package of information mailed</u>
<u>Tamara Filas</u>	<u>6/28/13</u>	<u>see enclosed package of information mailed</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

Attach additional sheets as necessary.

Signature of medical records representative completing this form:

Carla Gzym, Medical Records Supervisor

Printed name:

Carla Gzym

Date:

10/30/2014

# Exhibit K

**REGISTER OF ACTIONS**

CASE No. 13-000652-NI

**RELATED CASE INFORMATION****Related Cases**

11-014149-NF (Prior Action)

**PARTY INFORMATION**

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

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

01/14/2013	<b>Service Review Scheduled</b> <i>(Due Date: 04/15/2013) (Clerk: Tyler,F)</i>
01/14/2013	<b>Status Conference Scheduled</b> <i>(Clerk: Tyler,F)</i>
01/14/2013	<b>Case Filing Fee - Paid</b> <i>\$150.00 Fee Paid (Clerk: Tyler,F)</i>
01/14/2013	<b>Complaint, Filed</b> <i>(Clerk: Bynum,D)</i>
02/06/2013	<b>Answer to Complaint-with Jury Demand, Filed</b> <i>Proof of Service, Filed; Affirmative Defenses, Filed (Clerk: Tyler,F)</i>
02/06/2013	<b>Proof of Service, Filed</b> <i>(Clerk: Tyler,F)</i>
02/07/2013	<b>Request for Admissions, Filed</b> <i>(Clerk: Tyler,F)</i>
02/12/2013	<b>Appearance of Attorney, Filed</b> <i>(Clerk: Tyler,F)</i>
02/19/2013	<b>Service of Complaint, filed</b> <i>(Clerk: Tyler,F)</i>
02/19/2013	<b>Answer to Affirmative Defenses, Filed</b> <i>(Clerk: Tyler,F)</i>
02/20/2013	<b>Answer to Complaint-with Jury Demand, Filed</b> <i>Proof of Service, Filed; Affirmative Defenses, Filed (Clerk: Tyler,F)</i>
02/20/2013	<b>Witness List, Filed</b> <i>Proof of Service, Filed (Clerk: Tyler,F)</i>
02/25/2013	<b>Affirmative Defenses, Filed</b> <i>(Clerk: Tyler,F)</i>
03/11/2013	<b>Appearance of Attorney, Filed</b> <i>(Clerk: Tyler,F)</i>
03/26/2013	<b>Motion to Extend Time, Filed</b> <i>Fee: \$20.00 Paid; Brief, Filed; Proof of Service, Filed; Notice of Hearing, Filed (Clerk: Tyler,F)</i>
04/03/2013	<b>Notice of Hearing, Filed</b> <i>(Clerk: Tyler,F)</i>
04/04/2013	<b>Praecipe, Filed (Judicial Officer: Borman, Susan D.)</b>
04/19/2013	<b>Notice of Hearing, Filed</b> <i>(Clerk: Tyler,F)</i>
04/19/2013	<b>Motion to Compel Answers to Interrogatories, Filed</b> <i>Fee: \$20.00 Paid; Brief, Filed; Proof of Service, Filed; Notice of Hearing, Filed (Clerk: Tyler,F)</i>
04/22/2013	<b>Motion to Consolidate, Filed</b> <i>Fee: \$20.00 Paid; Brief, Filed; Proof of Service, Filed; Notice of Hearing, Filed (Clerk: Tyler,F)</i>
04/24/2013	<b>Praecipe, Filed (Judicial Officer: Borman, Susan D.)</b>
04/24/2013	<b>Notice of Hearing, Filed</b> <i>(Clerk: Tyler,F)</i>
04/26/2013	<b>CANCELLED Motion Hearing (9:00 AM) (Judicial Officer Borman, Susan D.)</b>

- 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 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 Retained (248) 764-1210(W)
Defendant	EFFICIENT DESIGN, INC.	James C. Wright Retained (248) 851-4111(W)
Plaintiff	Filas, Tamara	Pro Se
Plaintiff	FILAS, TAMARA	Daryle G. Salisbury Retained (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 **Praeipice, 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 **Praeipice, 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 **Praeipice, 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  
CIVIL DIVISION

TAMARA FILAS,  
Plaintiff,

vs.

KEVIN CULPERT and EFFICIENT DESIGN,  
Defendants.

Case No. 13-000652 NI

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

MOTION

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

APPEARANCES:

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

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

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

COPY

TABLE OF CONTENTS

PAGE

1  
2  
3  
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WITNESS:

None

EXHIBITS:

None

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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 MR. HASSOUNA: What about this --

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

3 THE COURT: Okay.

4 MR. HASSOUNA: What about the authorizations?

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

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

17 THE COURT: I don't want to hear about the  
18 restrictions. I already ruled on that. I said you  
19 couldn't do that so we're not going to revisit that,  
20 okay. We're not going to revisit that. But if you  
21 persist on doing that, this case is going to be  
22 dismissed too. There's going to come a point where  
23 if I've dismissed the case twice, it's going to be  
24 with prejudice, and then you're not going to be able  
25 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

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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.)

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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 M

6477 Edgewood  
Canton, MI 48187  
March 17, 2015

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

Sent via Certified U.S. Mail

**RE: Tamara Filas v Kevin Thomas Culpert & Efficient Design, Inc.,  
MSC # 151198, COA #317972**

Dear Mr. Wright,

I received a letter from the Michigan Supreme Court dated 3-12-15 that should have been sent to all parties to the case. I noticed that your name was not listed at the bottom as a party to whom a copy of the letter was sent.

I called the MSC on 3-17-15 and informed them of the error. Cheryl, the clerk, told me that she would mail you out a copy of the 3-12-15 letter and add your name to the label-printing system so that if any other correspondence from the court was to be sent out to all parties, you should now receive it.

Cheryl stated that nothing would be indicated on the docket, nor would I receive any confirmation that the letter was sent out to you. Therefore, to be certain that you received a copy of the 3-12-15 letter, I am enclosing a copy of it.

Yours truly,

signature redacted

Tamara Filas

Enclosure: 3-12-15 letter from Larry S. Royster, Supreme Court Clerk





**Michigan Supreme Court  
Office of the Clerk  
Michigan Hall of Justice  
P.O. Box 30052  
Lansing, Michigan 48909  
Phone (517) 373-0120**

March 12, 2015

Tamara Filas  
6477 Edgewood  
Canton, MI 48487

Re: Filas v Kevin Thomas Culpert & Efficient Design, SC #151198

Ms. Filas,

Your Application for Leave to Appeal in the above-referenced matter has been received and filed by this office and will be submitted to the Court for its consideration on or after March 31, 2015.

By copy of this letter, other counsel are advised that an answer to your application may be filed with this office. You and all other parties will be advised by mail when the Court has taken action.

**LARRY S. ROYSTER  
Supreme Court Clerk**

CRD/cc

cc: Drew W. Broaddus, Attorney  
Michael C. O'Malley, Attorney

7014 1200 0000 9123 0734

**U.S. Postal Service™**  
**CERTIFIED MAIL™ RECEIPT**  
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)  
 FARMINGTON MI 48334

Postage	\$	\$0.49	0188
Certified Fee		\$3.30	03
Return Receipt Fee (Endorsement Required)		\$2.70	Postmark Here
Restricted Delivery Fee (Endorsement Required)		\$0.00	MAR 17 2015
Total Postage & Fees	\$	\$6.49	03/17/2015



Sent To *James C. Wright*  
*Zausmer, Kaufman, August P. Caldwell, P.C.*  
 Street, Apt. No.,  
 or PO Box No. *31700 Middlebelt Rd., Suite 150*  
 City, State, ZIP+4  
*Farmington Hills, MI 48334*

PS Form 3800, August 2006 See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
*James C. Wright*  
*Zausmer, Kaufman, August P. Caldwell, P.C.*  
*31700 Middlebelt Rd., Suite 150*  
*Farmington Hills, MI 48334*

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
 X *Nedda Nehmech*  Agent  Addressee

B. Received by (Printed Name) *Nedda Nehmech* C. Date of Delivery *3.20.15*

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail®  Priority Mail Express™  
 Registered  Return Receipt for Merchandise  
 Insured Mail  Collect on Delivery

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number (Transfer from service label) **7014 1200 0000 9123 0734**

# Exhibit N

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, 2013

# Exhibit O

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  
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] L [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] L [redacted]  
10-5-12, C [redacted] L [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

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

**Court address**  
 2 Woodward Ave. Detroit, MI 48226

**Court telephone no.**  
 (313) 224-5261

<b>Plaintiff</b>  Tamara Filas	v	<b>Defendant</b>  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 (734) 751-0103

\_\_\_\_\_  
 City, state, zip 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
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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: Below was DOB [REDACTED] to present pertaining to Tamara Filas (DOB [REDACTED]). Please provide films on CD, if possible.

Billing information from 1-15-2010 to present

Thank you in advance for your assistance.

Yours truly,

signature redacted

Tamara Filas

Approved, SCAO

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

<b>STATE OF MICHIGAN</b> JUDICIAL DISTRICT 3rd JUDICIAL CIRCUIT COUNTY PROBATE	<b>AUTHORIZATION FOR RELEASE          OF MEDICAL INFORMATION</b>	<b>CASE NO.</b> 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.

Date: 6-19-13

Signature: Tamara Filas (signature redacted)  
 Name (type or print) (If signing as Personal Representative, please state under what authority you are acting)

Address: 6477 Edgewood  
 Canton, MI 48187  
 City, state, zip

Telephone no. (734) 751-0103



Certificate Of Mailing

This Certificate of Mailing provides evidence that mail has been presented to USPS for mailing. This form may be used for domestic and international mail.

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  
48187  
JUN 19, 2013  
AMOUNT

# Exhibit P

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

17 For the Defendant:  
(Efficient Design)

JAMES WRIGHT, P67613  
*Zausmer, Kaufman, August & Caldwell, P.C.*  
31700 Middlebelt Road, Suite 150  
Farmington Hills, MI 48334  
(248) 851-4111

20 For the Defendant:  
(Kevin Culpert)

MATTHEW PICCIRILLI, P76550  
340 E. Big Beaver Road, Suite 250  
Troy, MI 48083  
(248) 764-1127

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

COPY

TABLE OF CONTENTS

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WITNESS:

None

EXHIBITS:

None

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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.

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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 Q



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

hereby authorize

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

I, the Director or Designee, of Medical Records Department, to release information contained in my patient records, including alcohol and drug abuse records protected under the regulations in Code 42 of 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, Hepatic 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 Orłowski 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 provider may not condition treatment, payment, enrollment or eligibility for benefits on whether I sign this form.
- A photocopy of this document shall be 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 Orłowski only, and no other entity or person.

X Signature of Patient signature redacted      X Tamara Filas Printed Name      X 4-26-13 Date Signed

Signature of Parent/Guardian/Personal Representative      Printed Name      Date Signed

Relationship to Patient   

Notary:    Subscribed and sworn to on this    Day of    20  

   Signature      Notary Public      County   

   Printed Name      My Commission expires:

# Exhibit R

**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 24<sup>th</sup>, 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  
FMHJ  
13 JUL 23 AM 9:13  
FMHJ

TABLE OF CONTENTS

WITNESSES:

None

EXHIBITS:

None



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Detroit, Michigan

Monday, June 24<sup>th</sup>, 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 1<sup>st</sup>, 2013, if no objection is filed on or  
6 before July 1<sup>st</sup>, 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.)

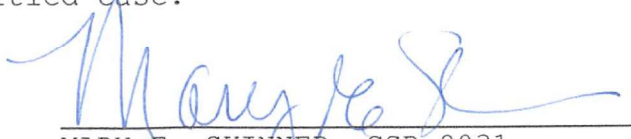
24 \* \* \*

25 \* \* \*

CERTIFICATE OF REPORTER

STATE OF MICHIGAN )  
 )SS  
COUNTY OF WAYNE )

I, MARY E. SKINNER, Official Court Reporter  
for the Third Circuit Court for the County of Wayne, do  
hereby certify that the foregoing pages are inclusive and  
comprise a full, true, and correct transcript of the proceeding  
in the above-entitled case.



MARY E. SKINNER, CSR 0031  
Official Court Reporter  
1441 Saint Antoine St.  
Third Circuit Court, Room 917  
Detroit, Michigan 48226  
(313) 224-2086

# Exhibit S

Align top of FedEx Express Shipping Label here



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

Origin ID: DECA



JUN11 10:01:03 AM '06

SHIP TO: (734) 751-0103  
Tamara Filas

BILL SENDER

6477 Edgewood

CANTON, MI 48187

Ship Date: 21 JUN 13  
Act Wgt: 1.0 LB  
CAD: 103129081/INET3370

Delivery Address Bar Code



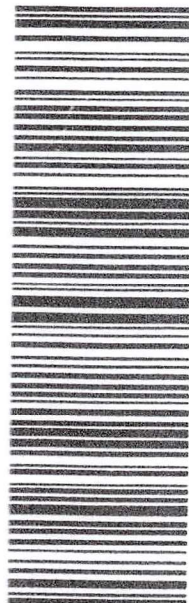
Ref # 9470-00121  
Invoice #  
PO #  
Dept #

TRK# 7960 6816 0170  
0201

MON - 24 JUN 3:00P  
STANDARD OVERNIGHT

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MI-US  
DTW

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# Exhibit T





# Monthly Statement

Jun 2 - Jul 1, 2013

KATHLEEN FILAS

PO BOX ██████  
CANTON, MI 48187 ██████

Page 1 of 2

Account Number 734 981-0666 ██████

Billing Date Jul 1, 2013

Web Site att.com

WAT 3107  
7-21-13  
\$ 51.46

## Bill-At-A-Glance

Previous Bill	50.96
Payment Received 6-21 - Thank You!	50.96CR
Adjustments	.00
Balance	.00
Current Charges	51.46
<b>Total Amount Due</b>	<b>\$51.46</b>
Amount Due in Full by	Jul 25, 2013

## AT&T Benefits

• Total AT&T Savings 15.99

• WE'RE HERE FOR YOU!

We hope your AT&T service is exceeding your expectations. Please call us at 1.877.377.5722 or visit us at att.com/mychoice if there's anything we can do to help you maximize the benefits of your service. When you call, please ask us about special limited-time offers that may save you money. For example, you can get the best value when you bundle qualifying wireless, home phone and digital TV service. Call today!

## Plans and Services

Monthly Service - Jul 1 thru Jul 31

Complete Choice® Basic 26.00

Call Plan Unlimited  
Caller Identification  
Calling Name Display  
Call Waiting

By choosing Complete Choice® Basic, you are saving \$15.99 over the cost of the same services purchased separately.

Federal Access Charge 5.38  
Total Monthly Service 31.38

### Local Toll

No.	Date	Time	Place Called	Number	Code	Min
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### Itemized Calls

1	6-24	325P	DETROIT	MI 313 224-5243	D	1	.50
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Key for Calling Codes:

D Day

## Billing Summary

Billing Questions? Visit att.com/billing

Plans and Services	36.51
1-800-288-2020	
Repair Service:	
1-800-515-7272	
Automated Billing/Payment Arrangements:	
1-800-207-2228	
AT&T Internet Services	14.95
1-877-722-3755	
<b>Total of Current Charges</b>	<b>51.46</b>

## News You Can Use Summary

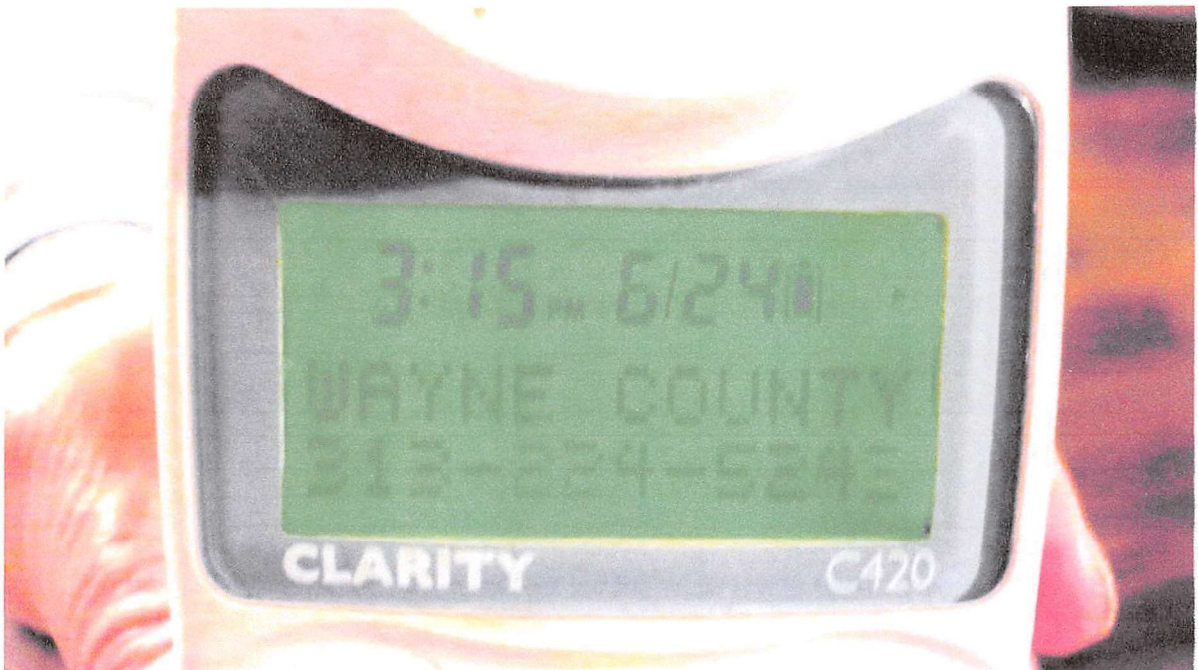
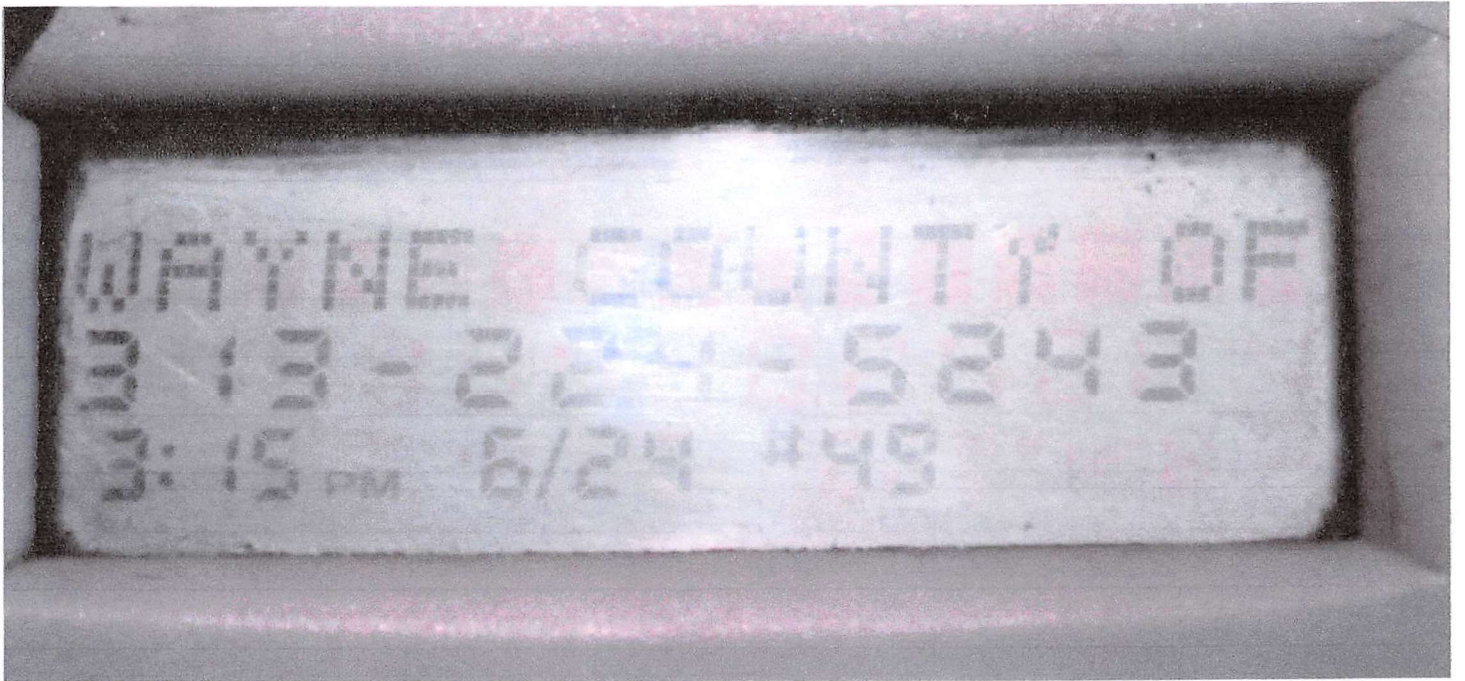
- PREVENT DISCONNECT
- LONG DISTANCE INFO
- FEDERAL FEE INCREASE
- MOVING SOON?
- SAVE! - AT&T ALERTS
- EASY ONLINE SUPPORT!
- LOCAL TOLL INFO
- PAYMENT OPTION:
- ELECTRONIC PAYM
- SERVICE INFORMA
- AT&T UNIVERSAL C
- CUSTOMER SUPPO

See "News You Can Use" for additional information.

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Michigan,  
is location.  
Printed on Recycled Paper

Return bottom portion with your check in the enclosed envelope.



**AFFIDAVIT OF KATHLEEN FILAS**

STATE OF MICHIGAN     )  
  ) SS  
COUNTY OF WAYNE     )

Kathleen Filas, being duly sworn, and based upon personal knowledge, deposes and says:

1. I make this affidavit based upon personal information, knowledge, and belief, and if called as a witness, I can competently testify under oath to the facts set forth herein:
2. I have had the landline telephone number 734-981-0666 listed in my name at my residence on Wedgewood Rd. in Canton, MI since 1982.
3. My daughter, Tamara Filas, does not reside with me.
4. Tamara does not make outgoing calls from my kitchen phone because she has had difficulty hearing conversations on that phone related to injuries to her hearing. It was the caller ID on the kitchen phone where I first observed a call received on 6-24-13 from 313-224-5243 and, the kitchen phone that I subsequently used to call that number back.
5. There are two, separate caller ID devices connected to two telephones serviced by this line land telephone number, 981-0666.
6. There is no answering machine or answering service on this line.
7. On Monday, June 24, 2013 (6-24) both caller ID's connected to 734-981-0666 registered incoming calls as follows:

3:15 PM 6/24  
WAYNE COUNTY  
313-224-5243.

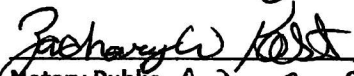
And

WAYNE COUNTY OF  
313-224-5243  
3:15PM 6/24 #43

8. I only received two calls on 981-0666 on 6-24-13. Only one call was from 313-224-5243.
9. At 3:25 pm, 6-24-13, I called the number registered on the caller ID, 313-224-5243, from my kitchen phone line with the number of 734-981-0666. The only other persons in my home at the time the incoming call from 313-224-5243 registered on my caller ID and when I called the number back were my husband and mother who can't speak. Tamara was not present. When I called 313-224-5243 at 3:35 pm, a woman answered and I gave her my phone number, 981-0666, and explained I received the call from 313-224-5243. She addressed me as Ms. Filas and said she was from the court. I acknowledged I was Ms. Filas, but informed her I thought she had the wrong number. It was determined that she wanted to speak to my daughter, Tamara Filas. I gave her Tamara's phone number which is the number that is shown on Tamara's court filings. I thought it was strange that the court would be calling me.
10. Tamara Filas does not have a land line at her residence. The only phone she has is a cell phone with voice mail service. I gave her cell phone number to the woman I spoke to at 313-224-5243 on 6-24-13, so she could reach her.
11. Photos included as evidence are of the two caller ID's showing the incoming call from 313-224-5243 on 6-24-13 at my residence as they were registered on that date. They were taken by Tamara Filas at my residence on August 3, 2013.
12. The copy of my monthly statement from AT&T showing my name, phone number and one (1) itemized call made from 734-981-0666 to 313-224-5243 that reads as follows:  
1 6-24 325P Detroit MI 313 224-5243 D 1, is an authentic copy of my original statement. I redacted my P.O. Box number and other identifying numbers to protect my account from being accessed by unauthorized persons.

signature redacted

Kathleen Filas

Subscribed and sworn to before me this  
5th day of Aug, 2013  
  
 Notary Public, Wayne County, MI  
 Acting in Wayne County  
 My Commission Expires: 9-12-18

ZACHARY W KAST  
 Notary Public, State of Michigan  
 County of Wayne  
 My Commission Expires Sept 12, 2018  
 Acting in the County of Wayne

verizon wireless

Invoice Number Account Number Date Due Page  
2938698205 [REDACTED] 08/04/13 9 of 27

**Detail for Tamara J Filas: 734-751-0103**

6/24	3:25P	000-000-0086	Peak	PlanAllstar	Canton MI	Voice Mail CL	2	--	--	--
6/24	3:31P	313-224-5243	Peak	PlanAllstar	Canton MI	Detroit MI	4	--	--	--

# Exhibit U

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

TAMARA FILAS,

Plaintiff,

v.

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

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

Defendants.

13-000652-NI  
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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](mailto: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](mailto: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@vgrplaw.com](mailto:momalley@vgrplaw.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 48334-2574 • 721 N. Capital, Suite 2, Lansing, MI 48906-5183

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



# Exhibit V

reacted accordingly.

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

At its core, Plaintiff-Appellant's argument is, 'I provided discovery in the manner that I decided I want and you cannot throw my case out'. However, from the inception, Plaintiff-Appellant has refused to allow open discovery and, instead, attempted to manipulate the process. Plaintiff-Appellant's filings and her actions show that she has intended to avoid producing medical records until she was satisfied that they were relevant. There is no basis in the law for this position. The Circuit Court was aware of this and, after giving the Plaintiff-Appellant multiple opportunities to comply with her directives, eventually dismissed her case.

The imposition of discovery sanctions is reviewed for an abuse of discretion.

