Exhibit Z

STATE OF MICHIGAN
MI Supreme Court

Proof of Service

Case Title:	Case Number:
TAMARA FILAS V KEVIN THOMAS CULPERT	151463

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Answer	Efficient Design's Answer to Application

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Exhibit AA

STATE OF MICHIGAN

SUPREME COURT

TAMARA FILAS,

Plaintiff-Appellant,

-vs-

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

Defendants-Appellees.

/

Supreme Court No. 151198

Court of Appeals No: 317972

Circuit Court No: 13-000652-NI

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PLAINTIFF-APPELLANT'S RESUBMITTED REPLY TO DEFENDANT-APPELLEE EFFICIENT DESIGN INC.'S ANSWER TO PLAINTIFF-APPELLANT'S APPLICATION FOR LEAVE TO APPEAL

Dated: June 10, 2015

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REPLY TO DF-AE'S COUNTER-STATEMENT OF THE BASIS OF JURISDICTION

Contrary to DF-AE's assertions, MCR 7.302(B)(5) *is* applicable because PL-AT was denied a legitimate oral argument hearing, denying her right of due process, a right that is important to every citizen and important to maintaining the integrity of the legal system, for which every plaintiff who requests oral argument upon filing an appeal with the COA is entitled, since two issues from PL-AT's Brief on Appeal, IV, and V, to be heard by the Court of Appeals at an oral arguments session held on 3-3-15, were rendered moot by the previous 11-25-14 Order granting DF-AE's Motion to Affirm for Item III, which upheld the circuit court's dismissal of PL-AT's entire case without oral argument. MCR 7.302(B)(5) also applies because the COA's 11-25-14 granting of the DF-AE's Motion to Affirm based on the doctrine of collateral estoppel is clearly erroneous and will cause PL-AT material injustice if the COA's 11-25-14 Order to uphold the dismissal is not overturned by the MSC.

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, a decision which has been upheld by the Court of Appeals in both PL-AT's first- and third-party auto 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 where sales and access are restricted primarily to lawyers and insurance companies. Plaintiff's records that are copied by a record copy service ("RCS"), or with a Defendant's attorney's own personal authorization forms, which contained language "*This information is to be released for copying*

purposes to James C. Wright…" could still end up being given or sold to a RCS or placed in another database by the Defendant's attorney, for which Plaintiff has no access, no way of knowing what records were obtained, and no way to object to errors which could harm Plaintiff. The quoted statement from Mr. Wright's forms can be interpreted as giving the ability to Mr. Wright to re-copy and re-disclose records he obtained from PL-AT with her permission, that otherwise he would not have had a legal right to re-disclose. There would be no reason to get permission to *copy* PL-AT's information unless he planned to re-disclose it. SCAO-mandated MC 315 authorization forms do not allow for the re-copying of records, which at least protects Plaintiff's private information from ending up in databases for perpetuity with Plaintiff's private information in the possession of entities that are not parties to the litigation of Plaintiff's separately filed first-party PIP or third-party tort cases, enabling discriminatory actions against a Plaintiff to occur without detection or penalty to anyone. PL-AT was ordered by the lower court to re-do the process of disclosing medical records using Mr. Wright's personal authorization forms, denying her rights under MCR 2.314(C)(1)(a) and (d), by refusing to accept the already executed and mailed copies of MC 315 to twenty-some health care providers, from which Mr. Wright had already been receiving PL-AT's medical records (Exhibit A, 6-24-13 signed cover letter from Wright's office; Exhibit B, sample of MC 315 and cover letter for Mr. Wright; Exhibit J, letters from health care providers verifying records were sent to attorneys for Culpert and EDI).

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, when a Plaintiff is ordered by the lower court to provide medical authorizations to Defendants. Allowing a Plaintiff to choose how they wish to provide their medical records to

Defendants as allowed under MCL 2.314(C)(1), does not infringe upon the discovery rights of anyone in no fault auto or third party auto tort cases, and is not sufficient grounds to dismiss a Plaintiff's case. Mr. Wright lied to the Court at the 6-21-13 hearing when he stated PL-AT was refusing to provide "signed medical authorizations" when all he asked for were "copies of her medical records" in his request for production. The trial Court had no legal authority based upon Mr. Wright's 6-21-13 lie that PL-AT refused to sign medical authorizations, under MCR 2.314(C)(1) to Order Plaintiff to provide the personal medical release authorization forms written by Mr. Wright's law firm. The only medical release authorization form the Court could have legally ordered PL-AT to use was the form mandated by the SCAO, MC 315. (Exhibit D, relevant page of 2-7-13 request for production; Exhibit E, 6-21-13 transcript, pg.6, lines 17,18; Exhibit C, 6-23-11 memorandum from Chad C. Schmucker, State Court Administrator). For the lower Court not to accept PL-AT's executed copies of MC 315 is unjust and a clearly unlawful.

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 provide their medical records directly to the Defendants, or to use MC 315 if ordered by the court to provide medical release authorization forms.

REPLY TO COUNTER-STATEMENT OF QUESTIONS INVOLVED

I. DF-AE presents the following question:

> **Plaintiff-Appellant filed suit alleging she has suffered personal injury, thereby placing her physical and mental condition at issue. Defendants-Appellees sought the release of Plaintiff-Appellant's medical and employment records to prepare a defense to the allegations. Plaintiff-Appellant repeatedly refused to obey the Circuit Court orders to sign authorizations, claiming that, due to her privacy concerns, she did not have to produce any records until it was proven that Defendant-Appellee was liable. Even after being ordered to sign authorizations presented by Defendant-Appellee, Plaintiff-Appellant refused to sign claiming that she could create her own authorizations and limit the scope of discovery. Where Plaintiff-Appellant repeatedly refused to sign authorizations as directed by the Circuit Court, and where she obstinately refused to sign the authorizations at a final hearing on whether her case should therefore be dismissed, did the Court of Appeals properly affirm the Circuit Court's dismissal of the Plaintiff-Appellant's case for her ongoing refusal to participate in discovery?**

There are multiple erroneous claims and misrepresentations within DF-AE's question, which PL-AT will address below in the order they appear in the question.

PL-AT did not place her mental condition at issue, as DF-AE claims. The alleged personal head injury, in itself, does not place a mental condition at issue in the complaint as filed. No legitimate diagnosis of any mental disorders are contained in PL-AT's medical records. Mr. O'Malley's accusations regarding her demeanor and motives are malicious and without substance.

PL-AT denies that she "*repeatedly refused to obey the Circuit Court orders to sign authorizations, claiming that, due to her privacy concerns, she did not have to produce any records until it was proven that Defendant-Appellee was liable.*" It would have been impossible to "repeatedly" refuse, because there was only one opportunity, given at the 6-21-13 hearing, at which two motions to compel were scheduled to be heard: One dated 4-19-13 filed by Mr. Hassouna, representing Culpert; and one dated 4-30-13, filed by Mr. Wright, representing EDI.

Both motions were heard on 6-21-13, which is when PL-AT's objections(objected) to providing medical records to Mr. Wright since EDI had denied liability in its Answer to PL-AT's complaint. Prior to the start of the 6-21-13 hearing, PL-AT already hand-delivered to Mr. Hassouna, completed interrogatories and copies of MC 315 medical record authorizations with mailing receipts that she brought to the court with her, although the transcript and Culpert's 3-23-15 Answer to PL-AT's Application for Leave to Appeal to the MSC gave the appearance that PL-AT did not provide Culpert anything. Exhibit J, copies of letters from health care providers verifying both Culpert and Wright received PL-AT's medical records, proves this is untrue. Mr. Hassouna did not object to receiving the copies of MC 315 authorizations with cover letters to each health care provider, listing dates of treatment for convenience and ability to check for completeness (Exhibit I, samples of MC 315 and cover letters given to Hassouna). Mr. Wright received the same forms and cover letters as Mr. Hassouna, on the morning of 6-24-13 (Exhibit A, 6-24-13 signed cover letter from Wright's office; Exhibit B, sample of MC 315 and cover letter for Mr. Wright). Therefore, there were no "repeated refusals" from PL-AT, only her initial claim in regard to EDI's denial of liability that was addressed at the hearing on 6-21-13. Secondly, it should be clear that whether PL-AT disagreed with providing records to EDI before establishing liability became a moot point in regard to her agreeing to providing medical authorizations, after the trial court indicated at the 6-21-13 hearing that they "don't wait for liability," and therefore required parties to provide records to any defendants the plaintiff named on the case, regardless of whether that defendant is denying liability in their pleadings, and if she didn't provide them, the court would dismiss her case and she would have "no case." During the 6-21-13 hearing, PL-AT agreed to provide medical release authorizations on EDI's Motion to Compel *before* liability was established. PL-AT delivered copies of executed MC 315 medical

release authorizations at 11:24 a.m., on 6-24-13 to Mr. Wright's Office, so she wouldn't have to appear back in Court on 6-24-13 after 2 p.m. It was not a matter of "proving" that the DF-AE was liable, or that DF-AE didn't "admit" to being liable, which is the way it is presented in DF-AE's filing and the 3-10-15 COA Opinion. DF-AE flat-out denied liability in its 2-5-13 Answer to PL-AT's Complaint, Item #16, claiming that "**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.**" (Exhibit E, 6-21-13 transcript pg 7; Exhibit F, Relevant page of Mr. Wright's 2-5-13 Answer to Complaint against Efficient Design). It was not until 6-21-13 Mr. Wright affirmed to the Court that EDI had vicarious liability (Exhibit E, 6-21-13 transcript, pg. 9. lines 21-23).

PL-AT included the question of liability in her 12-20-13 Appeal to the COA because she still believes it is ludicrous for her to have been ordered to provide her private medical information to an entity that may not even be a party to the case, especially one that has denied that Culpert was even their employee at the time of the accident. PL-AT wanted that important question answered by the COA, because if PL-AT is correct, then her entire case would have to be reinstated because it should never have been dismissed before PL-AT was permitted to send interrogatories to Culpert and EDI, and complete her discovery as to whether or not Culpert was an employee of EDI and if so, whether he was in the course and scope of his employment. However, rather than providing an answer to Question/Issue I as presented in PL-AT's 12-20-13 COA Brief on Appeal, the COA avoided giving an answer by lumping it with the other three issues it claimed PL-AT was prevented from litigating due to the doctrine of collateral estoppel because of their similarity---II, III, and VI, as ruled in the 11-25-14 Order for which this MSC

Application pertains[1]. Issue I of PL-AT's 12-20-13 COA Brief on Appeal, in regard to establishment of liability prior to disclosing medical records, certainly was not similar to the MEEMIC case, since there was no question of liability in the MEEMIC case. There was no dispute that MEEMIC was PL-AT's insurer and was therefore the company responsible for paying PL-AT's PIP benefits. PL-AT's discussion in regard to the inapplicability of the doctrine of collateral estoppel to Issue I of PL-AT's 12-20-13 Appeal is contained in Argument III, presented on pgs. 26-31 of PL-AT's 3-10-15 MSC Application for Leave to Appeal the 11-25-14 Order of the COA.

DF-AE's question states, "Even after being ordered to sign authorizations presented by Defendant-Appellee, Plaintiff-Appellant refused to sign claiming that she could create her own authorizations and limit the scope of discovery." This absurd statement has no merit. PL-AT never made said claims. PL-AT was ordered on 6-21-13 to sign Mr. Wright's personal authorization forms after the Court refused to accept the already executed and mailed copies of MC 315 PL-AT mailed to twenty-some health care providers on 6-21-13, 6-24-13, and 6-26-13. Mr. Wright had already been receiving PL-AT's medical records related to these authorizations prior to the 8-9-13 hearing. The only authorization forms PL-AT ever requested to use at any time, during either her first-party or third-party case, were the forms provided by the individual health care providers, or MC 315, neither of which were accepted by the Court, even though the attorney she dismissed agreed to allow her to provide her copies of medical records she had obtained from her health care providers to the Defendants. PL-AT never "created her own" authorizations or stated that she believed she could. She used SCAO-mandated Form MC 315. It would be nonsensical for PL-AT to limit the scope of discovery, as PL-AT wanted to be

[1] It is important that the MSC understands that the 3-10-15 Application is only in regard to the 11-25-14 Order, not the 3-10-15 Opinion, which is being appealed separately in PL-AT's 4-21-15 Application (MSC Case No. 151643).

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. PL-AT permitted disclosure of her records all the way back to birth, which is beyond what Mr. Wright asked for in his Request for Production of Documents (Exhibit D, Request for Production; Exhibit B, sample of MC 315 and cover letter for Mr. Wright).

If anyone could manipulate records and selectively decide what records would be received by the Defendants, it would be the Defendant's attorneys themselves; James Wright and Michael O'Malley representing Defendant, Efficient Design; and Mr. Hassouna, representing Defendant Kevin Culpert, because simply receiving signed authorizations from the Plaintiff, Tamara Filas, in the third-party tort case, in no way guarantees Plaintiff that all of the authorizations signed by her would actually be sent to the PL-AT's health care providers by the Defendants, and subsequently, does not guarantee all records would be received by the Defendant's from all health care providers. Plaintiff would have no way of knowing what records Mr. Wright had actually ordered and obtained until they were presented at a settlement conference. Since the Michigan Catastrophic Claims Association is a private, non-profit agency run by insurance companies, that does not deal with the public, there is clearly incentive for the Defendants' insurance companies not to want to document all of a Plaintiff's injuries or to allow Plaintiff to check for inaccuracies in the medical records and address them with the health care providers, not just in first-party no-fault cases, but in third party tort cases as well, not only to reduce the damages paid to Plaintiff in the third-party tort cases often settled by attorneys behind closed doors, but also to limit Plaintiff's ability to make claims and collect benefits for future

care from the MCCA, since all auto- related insurance claims affect all insurance companies that sell no-fault auto insurance, the rates they charge and their ability to compete. Although insurance companies are required to pay into the MCCA fund directly, they often have to charge more for their insurance products to offset the cost or realize less profit. The interest of insurance companies should not be a consideration in the settlement of no-fault auto cases or third-party auto tort cases where a victim's right to lifetime medical benefits is at stake or the amount of settlement is at stake.

DF-AE's question states *"Plaintiff-Appellant repeatedly refused to sign authorizations as directed by the Circuit Court, and where she obstinately refused to sign the authorizations at a final hearing on whether her case should therefore be dismissed."* As stated above in paragraph 3 of this section, there could not have been "repeated refusals" when she was only ordered one time on 6-21-13, and she complied with the Order to provide signed medical authorizations when she executed copies of MC 315 for Mr. Wright. Secondly, the "final hearing" on 8-6-13 was a sham, and was only in regard to PL-AT's objections to a 7-day Order of Dismissal. PL-AT was tricked by the Court and the attorneys into believing could reverse the dismissal of her case by filing said objections, which was untrue, as only a Motion for Reconsideration would have had that capability (See pgs. 16-17 below for details).

DF-AE also makes a claim about PL-AT's "*ongoing refusal to participate in discovery*." PL-AT cannot be accused of this since she provided everything Culpert's attorney requested (interrogatories and signed medical authorizations) prior to Culpert's Motion to Compel being heard on 6-21-13 (and it should not have even been heard by the court for the reason he already received what was being compelled, but Culpert's attorney pretended he hadn't received anything, according to the transcript). PL-AT provided everything she was compelled to provide

to EDI, based on EDI's 2-7-13 Request for Production of Documents (Exhibit D), upon which EDI's 4-30-13 Motion to Compel was granted on 6-21-13. It was DF-AE EDI and the Court that were unwilling to follow the court rules in regard to discovery procedures, by their refusal to accept PL-AT's use of MC 315, which is the only approved form to be used under MCR 2.314(C)(1)(d). (The Court was lied to by both Mr. Wright and Ms. McGrath, co-counsel for EDI at the 6-21-23 hearing, claiming the Court had stayed discovery until PL-AT had obtained successor council and therefore, they were unable to depose Kevin Culpert to determine if he was on the phone with his employer at the time of the accident. The fact is, on 5-2-13, the Court stayed only the deposition of PL-AT for 30 days or until successor counsel made an appearance, which ever was sooner, not *all* discovery, as the defendants implied. DF-AEs had plenty of time to depose Kevin Culpert before the 6-21-13 hearing to determine if he was in the scope of his employment and if EDI was liable (Exhibit H, 5-2-13 transcript page 5, lines 11-25; Exhibit E 6-21-13 transcript page 10, lines 31-25, page 11, lines 1-25, page 12, lines 1-5).

This case is about the trial court's refusal to permit PL-AT's use of form MC 315 to release her medical records, not about PL-AT's refusal to release her medical records, as DF-AE misleads the Court to believe with the question he presented.

II. DF-AE presents the following question:

Did the Court of Appeals correctly dismiss Plaintiff-Appellant's Issues I, II, III, and VI based on defensive collateral estoppel where the Plaintiff-Appellant litigated those very same Issues in *Filas v. MEEMIC*?

PL-AT provided a detailed analysis of the questions presented in *Filas v MEEMIC* compared with *Filas v Culpert and Efficient Design Inc*. in Argument IIB on pgs. 18-23 of PL-AT's 3-10-15 MSC Application, showing that the issues are definitely not the same, and in some

cases, not even similar. Most importantly, even if the issues were somehow deemed "the same," they were not actually litigated, which is a requirement for the doctrine of collateral estoppel to apply. It is extremely important to note that the MEEMIC Court of Appeals opinion dated 10-14-14 did not actually answer any of the questions PL-AT presented in her appeal in regard to the use of MC 315, so even if they had been relevant to the instant case, they would be of no assistance to the Defendants to use as justification for dismissal of the instant case. The COA, in their unpublished opinion dated 10-14-14, avoided a response to the Plaintiff-Appellant's questions in the MEEMIC case by using the novel argument that Plaintiff-Appellant was required to sign Records Deposition Services Inc. ("RDS") forms solely due to wording in a Protective Order (PO) entered in the MEEMIC case by Plaintiff-Appellants attorney, that was entered in breach of the hiring agreement between Plaintiff-Appellant and her attorney.

As no Protective Order ("PO") was entered in the instant case, the Defendant-Appellee is left with no argument as to why Plaintiff-Appellant's executed copies of SCAO-mandated Form MC 315 were not acceptable. Because the issue of a Plaintiff's use of MC 315 when no PO exists was never actually litigated, the doctrine of collateral estoppel cannot be applied to the instant case.

III. DF-AE presents the following question:

Did the Court of Appeals violate the Plaintiff-Appellant's due process rights when it ruled on the *Motion to Affirm* without holding oral arguments?

DF-AE misrepresents the situation in this question by omitting the fact that this particular motion upheld the dismissal of the entire case in violation of MCR 7.214(E)(1), which only allows for motions to be heard without oral argument if they met specific criteria, which were not met, as explained in argument I(B)(2) of PL-AT's 3-10-15 Application for Leave to Appeal

to the MSC, pg. 15-16. PL-AT understands that ordinary motions before the COA are generally not subject to oral argument, but this particular motion, however, rendered PL-AT's oral argument session on 3-3-15 illegitimate since the COA could not reverse the dismissal already ordered on 11-25-14 by the granting of DF-AE's Motion to Affirm, by its inclusion of Issue III from PL-AT's 12-20-13 Brief on Appeal to the COA. A party filing timely briefs is entitled to oral argument in accordance with MCR 7.111(C), if requested in accordance with MCR 7.214(A), as PL-AT did. Further, not only was PL-AT denied oral arguments on DF-AE's 10-17-14 Motion to Affirm, but she was also denied a legitimate oral argument session on Issues IV and V at the 3-3-15 hearing because these issues were already rendered moot by the 11-25-14 Order upholding case dismissal. Therefore, PL-AT received no legitimate oral arguments on any of the six issues presented in her 12-20-13 Appeal to the COA. According to the Internal Operating Procedure 7.214(E), if the COA intended to decide the case without oral arguments, PL-AT was supposed to have been notified so that she could file a motion to object. Therefore, the COA erred in upholding case dismissal on 11-25-13 without notifying PL-AT her case would be decided without oral arguments.

INTRODUCTION

DF-AE Efficient Design Inc. ("EDI") presents a disturbing, falsified history of circuit court and Court of Appeals events. Important filing dates are altered or omitted. Quotations from pleadings are altered or important wording is omitted to change the meaning. Court rule and IOP numbers are purposefully altered to mislead MSC to believe PL-AT did not already address them in her 3-10-15 Application. The sophisticated trickery of DF-AE's Answer required a detailed, extensive analysis and comprehensive rebuttals like PL-AT has never encountered before. PL-AT did her best to comply with the MSC's 20-page limit to reply to DF-AE's 31-page Answer.

PL-AT sincerely prays the MSC will accept and read her pleadings, examine the exhibits before them, and listen to the 5-minute audio recording of the 3-3-15 oral argument hearing, and be able to separate and acknowledge the truth from the falsehoods presented by the DF-AEs and even the COA, in its 3-10-15 Opinion, and grant her Application for Leave to Appeal to the MSC this very important issue of being permitted to use MC 315 to provide medical records to defendants in a personal injury suit, as provided by MCR 2.314(C)(1)(d), and not having her entire case dismissed because of her use of SCAO-mandated MC 315 authorization forms.

REPLY TO COUNTER-STATEMENT OF FACTS

PL-AT has re-butted the same "facts" presented by the DF-AEs in this case numerous times, providing hard evidence to prove they are untrue, and yet they appear again in this filing, exactly or similar to how they were written in previous filings. Due to the MSC's page restriction, PL-AT has separated out allegations irrelevant to the instant application in Exhibit Y.

Contrary to DF-AE's claims on pg. 1, ¶2, PL-AT *did* follow the cited court rules. An Application putting forth "all" material facts would have required more than the 50-page limit for the Application. PL-AT put forth the relevant facts, which are only in regard to the Court of

Appeals' actions to apply the doctrine of collateral estoppel to uphold dismissal of PL-AT's case in the 11-25-14 Order. With its substantial focus on circuit court events, DF-AE attempts to mislead the MSC to believe the circuit court events are relevant. DF-AE falsifies the history presented, and avoids mention of the most important facts, i.e. that 1) PL-AT provided EDI with executed copies of SCAO-mandated MC 315, the only acceptable form to be used in accordance with MCR 2.314(C)(1)(d), the rule under which PL-AT was compelled to provide her medical information; and 2) that PL-AT's case was already dismissed on 11-25-14, prior to the 3-3-15 hearing on oral arguments held by the COA panel. (Ex. A, B, I, J).

Besides repeated false claims PL-AT did not provide authorizations, when it is evident she provided copies of MC 315 by viewing Exhibits A, B, I and J, there are 8 clear instances of alterations, omissions, false quotes and claims, miscitings and/or blatant lies in DF-AE's Answer:

1) DF-AE falsely refers to PL-AT having had a "Motion to Reinstate the Case" when she merely filed Objections to a 7-day Order of Dismissal, having been tricked into believing these objections could reverse dismissal of her case (Ex. Y, Item #41).
2) Alteration of the 6-21-13 transcript by putting a period where there was none, changing the meaning of the Court's sentence (Ex. Y, Item #14).
3) Use of quotations to falsely claim a statement was from PL-AT's pleading when only a similar statement was made and DF-AE had removed the important wording (pg. 17-18 of this filing).
4) Use of points of ellipsis to remove the important argument from heading 6 of PL-AT's 12-20-13 brief to falsely represent the argument (pg. 20-22 of this filing).
5) Use of quotations around statements never made by PL-AT (Ex. Y, Item #43).
6) False claims that Culpert's 10-17-14 Motion to Affirm was a renewal of the 12-20-13

Motion to Affirm when in fact the 10-17-14 Motion had its basis in the doctrine of collateral estoppel and was clearly a different motion (pg. 6-8 of this filing).

7) Mis-citing court rule 7.214 as 7.213, to give appearance the rule was presented for the first time by EDI, when PL-AT already argued it in her 3-10-15 Application (pg. 38-39 of this filing).

8) Mis-citing IOP 7.214(E) as 714(E) in order to misrepresent the COA's internal policies in regard to deciding cases without oral arguments (pg. 44-45 of this filing).

The extensive, detailed presentation of the circuit court proceedings not only misrepresents the facts, but is also irrelevant to the determination of whether or not the COA correctly applied the doctrine of collateral estoppel to uphold dismissal of the case on 11-25-14. See Exhibit Y, Items #1 – 24 for rebuttals. EDI's arguments about liability have no merit, and are a poor attempt at covering up the fact that Issue I from PL-AT's 12-20-13 COA Appeal, in regard to liability, did not belong with the other issues deemed similar to the MEEMIC case that PL-AT was prevented from litigating due to the doctrine of collateral estoppel, as argued by the DF-AEs and opined by the COA in the 11-25-14 Order that dismissed the entire case. PL-AT's Argument III on pg. 26-31 of her 3-10-15 MSC Application is that Issue I should not have been included along with issues II, III, and VI with the 11-25-14 Order, as it clearly did not belong since there was no dispute that MEEMIC was PL-AT's insurer at the time of the accident and that MEEMIC would be the responsible party to pay PIP benefits.

Similarly to the 3-10-15 COA Opinion, EDI's 3-30-15 Answer gives the false impression that EDI simply hadn't admitted liability, when PL-AT made it clear that they had denied liability. On pg. 3 of EDI's Answer, DF-AE cites two quotations from PL-AT's 6-18-13 Answer to EDI's 4-30-13 Motion to Compel, the same two quotations appearing on pg. 2, ¶2 of the

COA's 3-10-15 Opinion, 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, EDI, just like 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.*" (Exhibit F, Relevant page of Mr. Wright's Answer to Complaint against Efficient Design, dated 2-5-13, filed 2-6-13). 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 by stating Culpert was not an agent of Efficient Design, as quoted above from EDI's 2-6-13 Answer to PL-AT's complaint. PL-AT would not even need to send interrogatories to EDI to determine if they were liable, if they hadn't denied liability in their answer, or to Kevin Culpert, to determine if he was in the scope of his employment when the accident occurred. On 6-21-13, when Culpert's attorney, Mr. Hassouna, was asked by the Court if Mr. Culpert was an employee of Efficient Design, he answered "yes". If Culpert was an employee, then he would have also been an agent of EDI (Exhibit E, 6-21-13 transcript pg. 5, lines 9-11).

EDI's cited transcript references to justify arguments that PL-AT made arguments in regard to liability in the MEEMIC case have no relevance (Details in Ex. Y, Item 51).

EDI's statement on pg. 4 of EDI's 3-30-15 Answer that EDI filed a Motion to Dismiss that was granted on 6-24-13 is untrue. PL-AT already corrected this on pg. 6, 10, and 11 of her 3-10-15 MSC Application, when she realized that EDI never actually filed a Motion to Dismiss,

as she previously thought when she wrote Issue V of the 12-20-13 COA Brief. PL-AT still claims she was denied due process when her case was dismissed at the 6-24-13 special conference. PL-AT also claims that she was tricked by both the attorneys and the Court into believing she could reverse the dismissal by filing objections to the 7-day Order filed by Mr. Wright and provided a sham of a hearing on 8-9-13 in regard to said objections. Refer to pg. 16-17 of PL-AT's 4-13-15 Reply to Culpert's Answer.

PL-AT's 8-7-13 Reply to Plaintiff's Objections to the 7-day Order of Dismissal did not continue arguments in regard to establishment of liability, as EDI claims. See analysis in Ex. Y Item 52. It is disingenuous for EDI to mislead the court into believing PL-AT was still arguing liability in her Objections that were heard on 8-9-13, when PL-AT's primary argument was that her already executed copies of MC 315 should have been accepted by the Court, as both defense attorneys had already received records from, and were still receiving records from health care providers due to the processing of these forms since their mailing between 6-19-13 and 6-26-13, (Ex. V, 8-9-13 Transcript). PL-AT had only objected to providing newly requested, different records beyond the medical records from PL-AT's health care providers (i.e. tax and education records), for which authorizations were sent by Mr. Wright following the granting of his 4-30-13 Motion to Compel, until liability had been established. In a statement on pg. 7, ¶1, "DF-AE twists around the story, giving the appearance that these "new" records were medical records from PL-AT's health care providers. PL-AT could not have possibly objected to production of records from "new" medical providers because she had already provided authorizations for all her health care providers---there were no more to provide. PL-AT only objected to providing the newly requested 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).

On pages 8-9 of the 3-30-15 Answer, DF-AE falsely claims that PL-AT's MEEMIC case was dismissed on substantially similar grounds. The only similarities between the instant case and MEEMIC case are that in the MEEMIC case, PL-AT was refused the right to provide her medical records to MEEMIC using Form MC 315, and in the instant case, the court refused to accept already executed copies of form MC 315 provided to the DF-AEs. DF-AE falsely claims the COA upheld dismissal as a sanction for failure to comply with discovery and refusal to sign medical authorizations. The truth is that the COA upheld the dismissal of PL-AT's case based on the novel argument, constructed by the COA, and never raised by the DF-AEs, that a protective order issued in the MEEMIC case required PL-AT to sign only Records Deposition Services Inc. authorization forms. PL-AT never refused to sign medical authorizations in the MEEMIC case. She only refused to sign unmodified, third-party records copying service authorization forms.

On pages 8-9 of the 3-30-15 Answer, EDI attempts to mislead the MSC into believing that both Motions to Affirm, the one filed on 12-30-13, and the one filed 10-17-14, filed by Culpert's attorney, Mr. Broaddus, were one and the same, when they couldn't have been more different. There are also other errors in his statement, which PL-AT will address first. Culpert's first Motion to Affirm, was filed on 12-**30-13**, not 12-**13-14**. Culpert's second motion to affirm, was filed on 10-**17**-14, not 10-**14**-14. Culpert's 12-30-13 Motion to Affirm did not state that PL-AT failed to cite any law in support of her appeal--- it argued that PL-AT failed to cite any precedents. PL-AT argued on pg. 25-26 of her 1-21-14 Answer to Culpert's 12-30-13 Motion, "*No precedent would be required for a case in which clear and unambiguous court rule, MCR 2.314(C)(1), has been violated by the Circuit Court's ruling to dismiss Plaintiff-Appellant's case*

based on the court's refusal to allow Plaintiff-Appellant to provide her medical records to the Defendant-Appellees in the method(s) provided for under MCR 2.314(C)(1)(a) and/or MCR 2.314(C)(1)(d)" and "*it would not even be logical that all cases before the Court of Appeals would be required to state a precedent, because no new issues could ever be brought up and settled and there would be no point in even having a Court of Appeals."* Even if Culpert's Motion had claimed PL-AT did not cite any laws, like precedents, it would be unnecessary to cite any laws since PL-AT's appeal was only in regard to her attempts to require the DF-AE and the Court to follow a court rule MCR 2.314(C)(1)(d). Culpert's 12-30-13 Motion to Affirm also primarily argued that PL-AT did not preserve the issue of using MC 315. The COA did not agree and denied Culpert's 12-30-13 Motion to Affirm. EDI now makes the preposterous claim that this denied motion to affirm was somehow renewed on 10-17-14. The 10-17-14 Motion to Affirm does not mention issue preservation and only argues that PL-AT was collaterally estopped from litigating claims against Culpert and EDI that were the same as those that were litigated in the MEEMIC case. The 12-30-13 Motion does not even mention the MEEMIC case, the doctrine of collateral estoppel, or even issue similarity, which are the bases of the 10-17-14 Motion to Affirm. The 10-17-14 Motion to Affirm therefore cannot possibly be considered a renewal of the 12-30-13 Motion (Exhibit O, 12-30-13 Motion; Exhibit P, 10-17-14 Motion).

Culpert's 3-23-15 Answer to PL-AT's MSC Application used arguments from the old 12-30-13 Motion to Affirm, denied on 2-11-14, regarding issue preservation and PL-AT's failure to cite precedents, and portrayed them to the court as if they were new arguments to mislead the MSC to believe they should be ruling on them, when they were already ruled on by the COA. This team effort to persuade the MSC to rule upon issues that were already determined by the COA, which are not part of this appeal, is highly unethical and fraudulent.

DF-AE's portrayal on pg. 9-10 of the 3-30-15 Answer of the COA's ruling on 11-25-14 to grant Culpert's second 10-17-14 Motion to Affirm is misleading and misrepresents PL-AT's arguments presented on appeal to the COA. Issues II, III, and VI were in regard to PL-AT's use of Form MC 315. Issue I was in regard to establishment of liability before producing medical records, which clearly should not have been included in the 11-25-14 Order since there was no liability dispute in the MEEMIC case. The issues PL-AT presented to the COA in the MEEMIC appeal were not even addressed by the COA, and were therefore not actually litigated, since the COA created a novel argument that it was a Protective Order in place in the MEEMIC case that was responsible for PL-AT not being able to use MC 315, and being required instead to use Records Deposition Services Inc. forms. No protective order was entered in the instant case, rendering the doctrine of collateral estoppel inapplicable, which is Argument is IIC from PL-AT's 3-10-15 Application, pg. 23-24. No rebuttal to this argument was provided by EDI. DF-AE also incorrectly portrays PL-AT's Issue V to support DF-AE Culpert's lie, presented in the 3-23-15 Answer to PL-AT's MSC Application, that Culpert's attorney didn't file a written motion to compel, and only made an oral motion to compel at the 6-21-13 hearing. The truth is that Culpert *did* file a written Motion to Compel on 4-19-13 that was heard on 6-21-13. Refer to pg. 18 of PL-AT's 4-13-15 Reply to Culpert's Answer and Ex. Y, Item 53.

Pg. 10 ¶3 of EDI's 3-30-15 Answer, incorrectly refers to a "Motion to Dismiss," that was actually a "Motion to Affirm." It was Culpert's 10-17-14 Motion to Affirm that was granted on 11-25-14 without oral arguments, that left out Issues IV and V for oral arguments on 3-3-15.

PL-AT prays the MSC will listen to the approximately 5-minute 3-3-15 Oral Arguments session. There is nothing that can be interpreted as the PL-AT having chastised the panel, as DF-AE claims on pg. 10 ¶3. There was only one part in the dialogue in which PL-AT had to correct

the judge's statement in which Judge Gleicher claimed that the 11-25-14 panel was a completely different panel, when in reality, it was not, since Judge Fort Hood was on the 11-25-14 panel as well as the 3-3-15 panel. This is explained with quotations made from the audio file in PL-AT's 4-13-15 Reply to Culpert's Answer on pg. 22. PL-AT was nothing but respectful and polite while before the 3-3-15 COA panel, even while correcting Judge Gleicher's statement.

Contrary to EDI's claims on pg. I0 ¶3, PL-AT did not exclaim "*she didn't know why the parties were there to argue"* at the 3-3-15 COA oral arguments hearing. PL-AT kept a calm demeanor throughout the hearing, evidenced by the audio recording. PL-AT said the following: "*What I'm basically saying is, <u>that</u> panel dismissed the case. Item III was---involved dismissal of the entire case. So I---I guess I don't really understand the purpose of this hearing since the matter was already decided by the COA's November 24th [meant to say 25th] Order which upheld the dismissal of the entire case, so arguing issues IV and V at this time wouldn't have any impact or purpose whatsoever because even an outcome in my favor is not going to change the November 24th [meant to say 25th] order that already dismissed the entire case under item III.*" Neither the COA nor the DF-AEs countered PL-AT's claims that her case was already dismissed by the 11-25-14 Order and that the COA could not reverse the dismissal ordered by the 11-25-14 panel based on any arguments presented at the 3-3-15 hearing. It is not true that "*Defendant-Appellees simply relied on their Briefs on Appeal,*" as EDI states on pg. 10. When the DF-AEs were provided an opportunity to speak at the 3-3-15 hearing, Mr. Broaddus for Culpert rested on his briefs after affirming the COA had no questions for him. Judge Gleicher then directed her attention to Mr. O'Malley, and asked the leading tag question, "*You don't have anything to say, do you?*" which speaks for itself that she alerted Mr. O'Malley not to say anything. Mr. O'Malley then stated his name, confirmed that the COA did not have any questions for him, and

said, "*thank-you*." Mr. O'Malley did not comment he would be resting on his briefs, as claimed.

It is not true that the 3-10-15 COA Opinion was only in regard to issues IV and V, as claimed on pg. T0 ¶3 of EDI's 3-30-15 Answer. Technically, the 3-10-15 Opinion shouldn't have referenced anything but issues I-III and VI, the issues included in the 11-25-14 Order that upheld dismissal of the case, but they are barely mentioned. The words "collateral estoppel" are completely avoided in the Opinion, even though this was the reason PL-AT was not permitted to litigate issues I-III, and VI. The Opinion also heavily focuses on a discussion of establishment of liability, which was Issue I of PL-AT's COA Appeal, and was disposed of with the 11-25-14 Order to grant Culpert's 10-17-14 Motion to Affirm based on the doctrine of collateral estoppel.

By EDI making the statement, "*Plaintiff-Appellant filed her Application for Leave to Appeal to this Court on March 10, 2015*" directly following statements in regard to the issuance of the 3-10-15 Opinion, it gives the appearance that PL-AT is trying to appeal the 3-10-15 Opinion in this application, which is NOT the situation. In this application, PL-AT is only appealing the 11-25-14 Order that is the only valid order upholding dismissal of her case. PL-AT has a separate 4-21-15 Application to the MSC to appeal the 3-10-15 Opinion, MSC Case No. 151463, since the 3-10-15 opinion does not have any legal validity.

REPLY TO STANDARDS OF REVIEW

Contrary to DF-AE's claims, PL-AT *did* provide applicable standards of review in the Jurisdictional Statement of her 3-10-15 MSC Application. MCR 7.302(B)(5) applied because PL-AT was denied a legitimate oral argument hearing denying her right of due process, and the COA's 11-25-14 granting of the DF-AE's Motion to Affirm based on the doctrine of collateral estoppel was clearly erroneous and will cause PL-AT material injustice if it is not reversed. Due process is a right that is important to every citizen and important to maintaining the integrity of the legal system. MCR 7.302(B)(3) applied since 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. The DF-AEs have gone through great lengths to construct a tangled web of lies, inclusion of irrelevant facts, and avoidance of the mention of SCAO-mandated medical authorization Form MC 315, MCR 2.314(C)(1)(d), and collateral estoppel, the main issues of this case, to confuse the court and to conceal the rights of Plaintiffs to provide their medical records under court rule MCR 2.314(C)(1)(d).

Contrary to claims on pg. 11 ¶3 of EDI's 3-30-15 Answer, PL-AT's 3-10-15 MSC Application does not invoke a review of the COA decision *"regarding the Circuit Court's dismissal of the lawsuit as a sanction for intentional and repeated discovery violations*." DF-AEs continue to misrepresent the basis of the case, and the reasons it was dismissed. DF-AEs and the circuit court violated discovery rules, not PL-AT, when they refused to accept PL-AT's use of SCAO-mandated Form MC 315 in accordance with MCR 2.314(C)(1)(d), even though the attorneys had already received records and were still receiving records from these executed and mailed copies of MC 315 that went out to all of PL-AT's health care providers (Ex. A, B). PL-AT's Application involves only a review of the COA's decision to apply the doctrine of collateral estoppel to prevent PL-AT from litigating the instant case. Pgs. 11-12 of EDI's 3-30-15 Answer erroneously portray the basis of PL-AT's Application. First, PL-AT did explain in her 12-20-13 COA Appeal that it was an abuse of discretion to dismiss her case when she clearly met her discovery obligations by providing her medical records using MC 315 under MCR 2.314(C)(1)(d) and therefore should not have received the discovery sanction of case dismissal. Secondly, the question before this Court in this appeal is not whether the COA erred in concluding the Circuit court did not abuse its discretion, because the COA never actually determined this, since the 11-25-14 Order relied on the Opinion in the MEEMIC case, which

also never examined the true issues of the case, and ruled the sanction of dismissal was appropriate due to a protective order (PO) in the MEEMIC case. The instant case had no PO. The real question before this Court in this application, is only in regard to the 11-25-14 Order, not the 3-10-15 Opinion, which is being separately appealed in case no. 151463, and is to determine: 1) whether the COA erred in ordering the upholding of the dismissal of PL-AT's case based on the doctrine of collateral estoppel when the issues in the instant case were not the same, and had not been litigated in the MEEMIC case; and 2) if failing to hold any valid oral arguments at all, which rendered two of PL-AT's arguments that could have reversed the dismissal, moot, leaving PL-AT with the only remedy to be for the MSC remand the case to the COA for oral arguments on all six issues, so that a legally valid opinion could be issued.

REPLY TO LAW AND ARGUMENT

PL-AT has presented valid questions that should be reviewed by this court, that involve legal principles of major significance, and it is clear that the COA's decision to uphold case dismissal based on the doctrine of collateral estoppel, is erroneous and causes a material injustice, for the reasons presented in her 3-10-15 Application.

Contrary to EDI's claims on pg. I3 ¶2, PL-AT is not of the opinion that "*she should be permitted to dictate the course of litigation, she may ignore established discovery procedures, and she can defy the Circuit Court's numerous orders without repercussion.*" PL-AT has only tried to enforce court rules which are supposed to dictate the course of litigation, specifically MCR 2.314(C)(1)(d), which requires that the form to be used to disclose medical records to another party in the case is MC 315, which PL-AT used to disclose her records to Culpert's attorney, with no complaints from him, and again, to EDI's attorney, who refused to accept them and was responsible for the dismissal of PL-AT's case by persuading the Court to dismiss PL-AT's case *sua sponte* without a motion from him, by appearing at the court on 6-24-13 for what

the Register of Actions refers to as a special conference, and falsely claiming he did not receive all of the authorizations from PL-AT and that they were altered. It is DF-AEs, not PL-AT, who have not only ignored, but *refused* to follow the established discovery procedures as outlined by court rule. It is the DF-AE who defied the Court's 6-21-13 Order when Mr. Wright did not provide copies of his personal authorizations by the end of the business day. PL-AT complied with her discovery obligations by providing her medical records to both DF-AEs.

The argument on pg. 13 ¶2 that PL-AT "*provides no legal basis in support of her claims, and she has left it up to the Circuit Court, the Court of Appeals*" has appeared in so many of the DF-AEs filings, it has become ridiculous. PL-AT's legal support couldn't be any clearer that MCR 2.314(C)(1)(d) gave her the right to use SCAO-mandated form MC 315 to provide her records to the DF-AEs, and that she therefore fully complied with discovery when she executed and mailed copies of MC 315 to all of her healthcare providers and disclosed her medical records in their entirety to DF-AEs, and should therefore not have suffered case dismissal due to her refusal to repeat the process of medical records disclosure using Mr. Wright's personal authorization forms containing clauses above and beyond what is requested in MC 315. PL-AT has never left anything to the court to determine. Her arguments have always been in regard to the clear and unambiguous court rule, MCR 2.314(C)(1)(d). Still, it should be understood that although PL-AT has had to discuss the issues pertaining to the circuit court's actions involved in her 12-20-13 COA appeal, due to the fact that DF-AE has brought them up in EDI's 3-30-15 Answer, these issues are <u>not</u> what is being appealed in the 3-10-15 Application to the MSC. The real question before this Court in this application, is to determine whether the COA erred in 1) ordering the upholding of the dismissal based on the doctrine of collateral estoppel when the issues in the instant case were not the same and had not been litigated in the MEEMIC case, and;

2) failing to hold any valid oral arguments at all, which rendered two of PL-AT's arguments that could have reversed the dismissal, moot, leaving PL-AT with the only remedy of having the MSC remand the case to the COA for oral arguments on all six issues, so that a legally valid opinion can be issued.

I. DF-AE's Argument I, presented on pg. 13-15 of the 3-30-15 Answer is completely irrelevant to PL-AT's 3-10-15 Application. PL-AT has not asked the MSC to review the Circuit Court's decisions to dismiss PL-AT's case, but instead to review the COA's decision to uphold case dismissal due to its erroneous application of the doctrine of collateral estoppel when it granted Culpert's 10-17-14 Motion to Affirm in its 11-25-14 Order without notifying the parties the case would be decided without oral arguments.

In response to pg. 13 ¶3, PL-AT's primary argument in "the case" is that the trial court refused to accept MC 315 as provided for under MCR 2.314(C)(1)(d). PL-AT's arguments in the 3-10-15 "Application" are different than the arguments comprising the substance of the case. PL-AT argued three issues in her 3-10-15 Application: I) In violation of MCR 7.214, the COA erred in failing to provide a legally valid hearing on oral arguments on 3-3-15 since PL-AT's entire case had already been dismissed by the COA's 11-25-14 Order; II) the doctrine of collateral estoppel was inapplicable for five presented reasons, and; III) Issue I of PL-AT's 12-20-13 COA Appeal, in regard to liability, should not have been included in the 11-25-14 Order upholding case dismissal. These three issues are the only issues PL-AT has requested the MSC consider in her 3-10-15 Application to appeal the 11-25-14 Order, so that she may receive valid oral arguments and a valid Opinion based on all six of her arguments presented in her 12-20-13 COA Brief on Appeal. DF-AE's Argument I misleads the court to believe the issue is ruling in regard to a "battle of the forms," when the issue of forms is not even before the MSC in this 3-10-15 Application for leave to appeal. DF-AE purposely conceals mention of MC 315 by name,

just as the 3-10-15 COA Opinion did, and refers to MC 315, the form PL-AT used to disclose her medical records to the DF-AEs as "*a SCAO form*." There is only one SCAO form to release medical information---it is MC 315.

EDI's 3-30-15 Reply to Law and Argument section I discusses irrelevant and erroneous circuit court events that are therefore addressed in PL-AT's Exhibit Y, Items 25-27. Pg. 14 ¶1-2 contains other falsehoods/misrepresentations already addressed elsewhere in this filing.

In response to DF-AE's conclusory statement on pg. 14-15, stating, "*The Application merely presents Plaintiff-Appellant's argument that she should not be required to abide by the Circuit Court's orders; orders that were based on authority vested in Circuit Court by this Court through the Michigan Court Rules*." PL-AT's 3-10-15 Application does nothing of the sort, as it is not even in regard to the decisions made by the Circuit Court---it is in regard only to the 11-25-14 Court of Appeals' Order that prevented her from litigating her claims in regard to the use of MC 315 based on the erroneous application of the doctrine of collateral estoppel. DF-AE focuses on the circuit court proceedings to detract from the real issues that occurred at the Court of Appeals level that are the basis of this appeal. This Application does not involve the MSC making any determination about the proceedings at the Circuit Court level. It only pertains to the 11-25-14 Order of the COA to grant Culpert's 10-17-14 Motion to Affirm based on the doctrine of collateral estoppel, and whether or not the doctrine was applicable to issues I-III and VI of PL-AT's Appeal, and whether or not the 11-25-14 Order that upheld dismissal of PL-AT's entire case was in violation of IOP 7.214(E) that requires notice to parties if a case is to be determined without oral arguments, and whether it could have even legitimately been determined without oral arguments in accordance with MCR 7.214(E).

A. DF-AE again attempts to confuse the MSC by giving the appearance the MSC is to be deciding the question of whether liability must be established prior to disclosing records to the opposing party, Issue I of PL-AT's 12-20-13 COA Appeal; and whether PL-AT should have to agree to language above and beyond the requirements of MC 315, Issue VI of PL-AT's COA Appeal; and thus, a determination of whether the circuit court erred. In this Application, in regard to Issues I and VI, the MSC is only being asked the question of whether or not the Court of Appeals erred by including Issue I as one of the four issues that PL-AT was collaterally estopped from litigating due to the COA's decision in the MEEMIC case, even though there was no dispute in regard to liability in the MEEMIC case, and PL-AT therefore argues the doctrine of collateral estoppel thereby could not apply; and whether Issue VI was the same as any of the issues presented in the MEEMIC case, for which PL-AT argues it is not.

DF-AE's Argument IA is completely irrelevant to the PL-AT's 3-10-15 Application. EDI represents the question before the MSC as one of whether or not liability should have first been established prior to PL-AT having to provide records to EDI, which is not the question at all. DF-AE avoids the fact that Issue I of PL-AT's 12-20-13 COA Appeal, was not disposed of because the COA agreed with the circuit court or the DF-AEs that even though EDI denied that Culpert was their employee, and they therefore would not have been liable, they were still entitled to PL-AT's medical records. The COA avoided ruling on the liability issue by lumping it with the other supposedly similar issues in PL-AT's *MEEMIC* case (COA Case No 316822, MSC No. 150510) and ruling that it was the doctrine of collateral estoppel that prevented her from litigating the liability issue presented in Issue I, even though there was no question of liability in the MEEMIC case. This is Argument III on pgs. 26-31 of PL-AT's 3-10-15 MSC Application to appeal the 11-25-14 Order, which was not even addressed in DF-AE's Answer.

In response to DF-AE's Argument IA ¶1 on pg. 15, PL-AT cited references to pleadings and transcripts where necessary in her Application. There are no pleadings or transcripts that PL-AT can cite in order to prove that the liability issue was never discussed in the MEEMIC case, because that would be impossible since liability in that case was never in question. It

would be DF-AE who would have to prove that the liability issue *was* part of the MEEMIC case, and DF-AE has provided no such citations, since there are none. MEEMIC never denied liability. It was well-established that PL-AT had a policy with MEEMIC and there was no question that they would be the company PL-AT had to sue in order to obtain her PIP benefits. The question presented in Issue I, quoted below from the 12-20-13 COA Appeal, simply was not related to the MEEMIC case and therefore should not have been included in the ruling with the other issues that PL-AT was ruled to have been collaterally estopped from litigating against Culpert and EDI:

> Question 1 from 12-20-13 COA Appeal, not relevant to the instant Application:
> ***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?***

Again, this is not the question being presented to the MSC, as DF-AE has portrayed it to be. The MSC need only determine if the issue of liability from Question 1 was presented and litigated in the MEEMIC case, which PL-AT has claimed it was not, and cannot cite references to something that is absent from the record, and DF-AE has provided no references to support its claims that liability was indeed an issue litigated in the MEEMIC case. Therefore, the COA's application of collateral estoppel to Issue/Question 1 of PL-AT's 12-20-13 Appeal was erroneous.

DF-AE claims on pg. 15-16, "*In the present matter, Plaintiff-Appellant makes bold allegations that the Circuit Court erred by requiring her "to provide her medical records to Efficient Design without establishing that they were a liable party to the case,"*" and references pg. 26 of PL-AT's MSC Application. This is a deliberate alteration of PL-AT's MSC pleading in two ways. First, as explained above, PL-AT was not making allegations in regard to the circuit court's errors---her allegations were in regard to the Court of Appeals' error of ruling that Issue I in regard to liability, could be collaterally estopped. Secondly, this statement provides a

"quotation" that is supposedly from pg. 26 of PL-AT's Application. This statement does not appear on that page or anywhere in her brief. The only similar quotation appears on pg. 26 of the 3-10-15 Application, in Argument III itself: "*The COA erred by upholding the circuit court's decision to order Plaintiff-Appellant to provide medical record authorization forms of Efficient Design's choice to Efficient Design without establishing that they were a liable party to the case.*" It should be noted that DF-AE altered PL-AT's statement to remove the words "*medical record authorization forms of Efficient Design's choice*" and replaced it with "*her medical records.*" PL-AT was not ordered to provide medical records to EDI, even though medical records were what was requested in EDI's Request for Production upon which the 4-30-13 Motion to Compel was based. PL-AT was ordered by the court at the 8-9-13 hearing to provide medical record authorizations, specifically, the personal forms of Mr. Wright, after she had already utilized MC 315 to complete the entire process of medical records disclosure from all of her health care providers to DF-AEs in June of 2013.

Even though the MSC is not being asked to determine the liability issue itself, only whether it should have been included with the ruling to prevent PL-AT from litigating it due to collateral estoppel, since DF-AE has presented issues argued in regard to the issue itself, PL-AT will hereby address them. DF-AE continues on pg. 16 ¶1, in regard to the liability issue, "*Plaintiff-Appellant cites no court rule, statute or case law supporting this proposition.*" In the footnote for this statement, DF-AE also admits that they were "*unable to provide citations beyond the Court rules, mostly because Plaintiff's position is, simply, unsupported by law.*" There would be nothing in the court rules about providing one's private medical records to non-parties to a case because it would be nonsensical to include the topic in the court rules since it is clearly absurd based on simple common sense. If a Plaintiff is suing the company they believe to

be the employer of the driver that hit Plaintiff's vehicle while in the scope of his employment, and that company answers the complaint that the person that hit the Plaintiff, is not their employee, but that they'd like to request and compel the Plaintiff to produce her medical records anyway, that would be absolutely ridiculous! Yet, that is exactly what has happened in this case. If Defendant, Kevin Culpert wasn't an employee or agent of EDI , EDI should have motioned the Court to have the case against them dismissed from the beginning. The fact the DF-AEs did not ask for an earlier dismissal, and the court demanding use of Mr. Wright's medical release forms allowing re-disclosure of PL-AT protected medical information, is suspect.

DF-AE continues on pg. 16 ¶1, "*Plaintiff-Appellant's argument continues that she is not required to provide discovery until she receives her own discovery responses and is satisfied that she has a valid claim against Efficient*." Let it be clear that if EDI had not answered the way they did in their 2-5-13 Answer to PL-AT's complaint, PL-AT would not have even needed to do any discovery (Exhibit F, relevant page of 2-5-13 Answer). The only reason PL-AT had to do discovery was to determine whether or not EDI was being untruthful when they claimed Culpert was not their employee at the time of the accident. Ironically, in the footnote of DF-AE's Answer on pg. 16, it is stated, *"Liability is one issue that is addressed during discovery, along with issues of damages*." Therefore, the DF-AE also admits that liability should have been addressed during discovery, and it would only be logical that it would be addressed before the release of private medical information.

DF-AE states on pg. 16 ¶2, "*While Plaintiff-Appellant does, in fact, cite a Court Rule relating to the use of SCAO forms for the release of medical information, she provides no authority to allow her to refuse to sign authorizations or limit the information sought."* It is important to note that just like the 3-10-15 COA opinion, DF-AE avoids mention of the fact that

the applicable court rule is MCR 2.314(C)(1)(d) that mandates the use of SCAO form MC 315. The reason PL-AT did not provide any authority to allow her to refuse to sign authorizations or limit the information sought is because she did not do either of these things and therefore would not need to justify doing them. PL-AT signed copies of MC 315 for all of her health care providers for both DF-AEs and requested any and all records back to birth (Ex. A, B).

In response to on pg. 16 ¶2, the "true" crux of PL-AT's argument is that she met her obligation under MCR 2.314(C)(1)(d) to provide her medical records to both DF AE's using MC 315, which is not just any authorization form, but the one mandated by the State Court Administrative Office, which must be accepted by the courts (Exhibit C, 6-23-11 memorandum from Chad C. Schmucker, State Court Administrator). PL-AT's Argument IV of her 12-20-13 COA Brief on Appeal addressed the issue of PL-AT not having provided all of the authorizations requested, which was because only medical records were requested in DF-AE's 2-7-13 Request for Production upon which the 4-30-13 motion to compel was based. In Argument IV, PL-AT argued that a new motion to compel would need to be filed in order to compel new and different types of records, such as educational and tax records, that had not been requested in the 2-7-13 Request for Production. PL-AT did not limit information to that she deemed to be relevant, as DF-AE claims since she provided any and all records back to birth from all health care providers.

DF-AE states on pg. 16 -17, *"Even on appeal, Plaintiff-Appellant maintains her argument, without citation or support, that a party "is justified in refusing to agree to additional language and/or missing information on a medical or employment authorization form … (i.e. allowance of photocopies, use of an expiration event instead of a date, allowance of records to be released "for copying purposes")."* DF-AE cites Plaintiff-Appellant's Brief on Appeal at p. 32, Heading 6 for this quotation, also known as Argument/Issue VI, one of the four issues

disposed of by the COA's 11-25-14 Order. The points of ellipsis contain the most important wording of PL-AT's argument VI (6) of her 12-20-13 COA Brief on Appeal, which is presented in full below, with the section removed by DF-AE shown in bold.

> The Plaintiff-Appellant in a third-party tort, or in any case where medical records are requested as a part of discovery, is 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").

PL-AT's argument VI from her 12-20-13 Brief was a comparison between Mr. Wright's forms and SCAO-mandated form MC 315. The removal of the bolded wording from the quoted argument by the DF-AE completely changes its meaning. The bolded wording *was* the citation and support that DF-AE claims PL-AT's argument lacked. PL-AT's argument was that any authorization form can be used as long as it does not require PL-AT to give up rights she would have had by signing MC 315 instead. PL-AT cannot be required to do anything above and beyond what the court rules require, and therefore cannot be required to do anything beyond what MC 315 requires, since MC 315 is the mandated form to be used under court rule MCR 2.314(C)(1)(d). Refer to Argument 6 on pgs. 32-29 of 12-20-13 COA Brief for details of the differences between Mr. Wright's forms and MC 315. Again, it is important to note that DF-AEs and the COA have gone through great lengths to cover up the court rule and form name that are the basis of PL-AT's COA Appeal---MCR 2.314(C)(1)(d), and MC 315, respectively. Still, the MSC is only required to determine whether Issue VI (6) presented above, has been litigated in PL-AT's MEEMIC case, and therefore can be collaterally estopped from being litigated in the instant case. In the 10-14-14 ruling by the Court of Appeals in the *Filas v MEEMIC* case, this question was not even addressed because the Court of Appeals relied on an argument that the protective order entered in the MEEMIC case was the sole reason the Plaintiff was required to

have signed the RDS forms. The COA came up with this argument on its own, because it never appeared in any of MEEMIC's pleadings, which is unjust and contrary to proper court procedure in which judges may only rule on the arguments presented and cannot help out either party by presenting novel arguments to justify their ruling, as the Court of Appeals has done in the MEEMIC case Opinion.

DF-AE's claim on pg. 17 ¶1 that PL-AT "*had no intention of allowing a full and complete release of her records for purposes of discovery"* is meritless. The record clearly shows that PL-AT did allow a full release of her medical records using MC 315.

DF-AE has made multiple claims in other filings like the one on pg. 17 ¶2, claiming that PL-AT didn't cite anything to support her arguments, when PL-AT clearly stated that MCR 2.314(C)(1)(d) and MC 315 were the applicable authorities. Again, by the DF-AE's even arguing this issue of the circuit court's dismissal at all in this filing, DF-AE is misleading the MSC to believe it is supposed to be examining the actions of the circuit court, and determining whether or not PL-AT should have been able to use MC 315, and that is <u>not</u> the basis of PL-AT's Application at all. PL-AT's 3-10-15 Application is not about the MSC determining whether or not the actions of the <u>Circuit Court</u> were erroneous. It is about the MSC determining whether or not the <u>Court of Appeal's</u> actions were erroneous when it upheld the dismissal of PL-AT's case based on the doctrine of collateral estoppel by its inclusion of Issue III, thereby denying PL-AT due process because she did not receive any valid oral arguments at all on her COA Appeal. The MSC needs only to determine whether or not issues I-III and VI are the same as those presented in PL-AT's MEEMIC appeal, and if so, determine whether or not the issues were actually litigated, and whether or not the appeal process must be exhausted before collateral estoppel can be applied, arguments for which PL-AT has provided support in her 3-10-15 MSC Application.

In conclusion of this section, DF-AE merely presents arguments to justify EDI's position on PL-AT's issues I and VI presented in her 12-20-13 COA Brief on Appeal, that the circuit court did not err by dismissing her case for the reasons presented in issues I and VI. DF-AE should have been arguing why the Court of Appeals was justified in including issues I and VI in their ruling to collaterally estop PL-AT from litigating these issues due to the 10-14-14 opinion in the MEEMIC case. However, DF-AE provides no such arguments to counter PL-AT's arguments that the issues were not similar and were not actually litigated, and therefore the doctrine of collateral estoppel was erroneously applied by the COA in the 11-25-14 Order.

B. DF-AE again attempts to confuse the MSC by providing an irrelevant description of events from the circuit court in order to justify the sanction of dismissal of PL-AT's case, while this application is only in regard to the actions of the Court of Appeals in its 11-25-14 Order granting Culpert's 10-17-14 Motion to Affirm based on the doctrine of collateral estoppel, which PL-AT claims is inapplicable for the reasons provided in her 3-10-15 MSC Application.

DF-AE's Argument IB is completely irrelevant to the PL-AT's Application. DF-AE's argument IB is, "*The Circuit Court Properly Dismissed Plaintiff-Appellant's Complaint for Her Willful Refusal to Comply with Discovery and the Orders of the Court.*" Not only is that not the reason PL-AT's case was dismissed by the Circuit Court, but the arguments presented to the MSC by the PL-AT are only in regard to the Court of Appeals' decision to apply the doctrine of collateral estoppel, ruling that PL-AT's Issues I-III, and VI of her 12-20-13 COA Appeal were already litigated in the MEEMIC case. This Application is not in regard to any of the issues in regard to the actions of the circuit court, only those of the COA. Thus, this entire section should be stricken from DF-AE's Answer. PL-AT's response to the irrelevant and erroneous circuit court events that are addressed in PL-AT's Exhibit Y, Items 28-50. PL-AT will discuss the few statements that are relevant to the 3-10-15 MSC Application below, such as those involving the

discussion of liability, which related to Issue I of PL-AT's 12-20-13 COA Appeal, and clearly should not have been collaterally estopped since there was no question of liability in the MEEMIC case.

DF-AE states on pg. 18-19, "*A review of the hearing transcripts shows that Plaintiff-Appellant never objected to the form of the releases produced by Defendant-Appellee Efficient's attorneys (at least not until her case had been dismissed). Her objections were that she was not required to produce her medical records to a defendant where "they haven't admitted any liability."* This is a fallacious argument because it is not possible to object to something until one has seen it. Mr. Wright's authorizations were not delivered to PL-AT until 6-24-13 at 3:00 PM. By this time, PL-AT's case was already dismissed *sua sponte* by Judge Borman, so it would not have been possible to object to the releases until after 6-24-13. PL-AT objected at her next court appearance, which was 8-9-13. DF-AE falsely states that PL-AT's objections were still in regard to liability following the 6-24-13 hearing, by quoting PL-AT's statements from the 6-**21**-13 transcript, rather than the 6-**24**-13 transcript. Liability was no longer an issue after 6-21-13 since the court told plaintiff at the hearing on 6-21-13 that "we don't wait for liability" and therefore PL-AT provided completed medical authorizations to EDI to avoid having her case dismissed (Exhibit E, 6-21-13 Transcript page 7). For DF-AE to mislead the court in regard to PL-AT's arguments is highly unethical and fraudulent and should be sanctioned by the Court.

In EDI's discussion about the circuit court's sanction of dismissal being the harshest sanction available, but yet still applicable to PL-AT's case, DF-AE makes claims on pg. 22 ¶1 that, "*There can be no question that Plaintiff-Appellant's abject refusal to sign the required authorizations was deliberate. The record is clear that Plaintiff-Appellant had been deliberately delaying discovery from the outset. At each occasion, Plaintiff-Appellant objected to producing*

any documents until Defendant-Appellee Efficient admitted liability." Mr. Wright cites no statute that gives him the right to demand the use of his personal authorization forms or to claim they were required forms. Only form MC 315 mandated under MCR 2.314(C)(1)(d) by the SCAO can be commanded with authority. Therefore, it is the MC 315 authorization form that holds a superior authoritative position as the form from which medical records can be released. Therefore, PL-AT has complied with signing the "mandated" authorizations and was not required by statute or any other authority to use Mr. Wright's personal forms or any other forms to release her records. The record proves there was only one occasion that PL-AT argued she should not have to produce records to DF-AE EDI, and that was the 6-21-13 hearing. Following the 6-21-13 hearing, at which the court said "we don't wait for liability," PL-AT abided by the court's order and disclosed her medical records and gave copies of filled out and signed MC 315 medical record release authorizations sent to her medical providers for Mr. Wright, representing EDI, to receive her records. Most importantly, the argument of establishment of liability is not what is being considered by the MSC in this Application, as DF-AE portrays the situation, by arguing it so many times in his answer. The MSC need only consider whether the issue of liability, Issue I of PL-AT's 12-20-13 COA Brief on Appeal, was part of the MEEMIC case, and could therefore be collaterally estopped from being litigated in this case. There was no question of liability in the MEEMIC case as they did not dispute being PL-AT's insurer. Therefore, the doctrine of collateral estoppel has been erroneously applied by the COA to Issue I.

DF-AE states on pg. 23, ¶1, *"No lesser sanction would be sufficient in this case. The dismissal was appropriate. On March 10, 2015, the Court of Appeals agreed with the Circuit Court and affirmed its ruling."* Throughout this entire section, by discussing only the issues pertaining to the circuit court's actions, DF-AE has attempted to confuse the MSC into believing

it is to be determining whether or not the sanction of dismissal was appropriate in the Circuit Court case, and that the MSC is to be examining the merits of PL-AT's questions/issues I - VI presented in her 12-20-13 COA Appeal. This could not be more incorrect. PL-AT's 3-10-15 MSC application requires an examination by the MSC of the Court of Appeals' actions, not the Circuit Court's. The MSC needs only to determine whether or not the doctrine of collateral estoppel was properly applied to issues/questions I - III and VI of PL-AT's 12-20-13 COA Appeal by the COA in its 11-25-14 Order that upheld the dismissal of PL-AT's case its entirety by the inclusion of issue III, and whether or not PL-AT was therefore denied a valid oral argument session before the 11-25-14 Order was entered to dismiss her case, and/or on 3-3-15 since her case was already dismissed when the 3-3-15 hearing on oral arguments took place. The MSC needs to determine whether or not PL-AT's issues I - III and VI are the same as issues in the MEEMIC case, and if so, if they have been litigated, and if the doctrine of collateral estoppel can be legitimately applied prior to PL-AT exhausting the appeals process in the MEEMIC case. These were the arguments presented in PL-AT's 3-10-15 MSC application. The actual merits of the six arguments, I – VI, presented to the COA, are not part of this appeal, as this Application is only in regard to the 11-25-14 Order, which is the only valid order that dismissed PL-AT's case, as PL-AT has a separate 4-21-15 MSC Application in regard to the 3-10-15 Opinion issued by the COA (MSC Case No. 151463), which PL-AT argued should be invalidated since it was issued after the case was already dismissed by the 11-25-14 Order and contained different reasons for upholding the dismissal than the reasons the 11-25-14 Order was granted.

The DF-AE claims that the COA agreed with the Circuit Court and affirmed the circuit court's ruling regarding the dismissal in its 3-10-15 Opinion. Even though the 3-10-15 COA Opinion did provide new, different reasons for dismissing PL-AT's case with regard to Issues I,

IV and V is presented in PL-AT's 12- 20-13 COA Brief on Appeal[2], the true reason for the COA upholding the dismissal was the doctrine of collateral estoppel, as ruled in their 11-25-15 Order, but the words "collateral estoppel" did not even appear in the 3-10-15 Opinion. Therefore, the COA never actually "affirmed" any of the circuit court's actions, as DF-AE claims.

II. DF-AE falsely claims the 10-17-14 Motion to Affirm was a renewal of the 12-30-13 Motion to Affirm denied by the COA on 2-11-14, when these two motions contained completely different arguments.

On pg. 23, ¶1 of this section, the DF-AE used an incorrect date for the first Motion to Affirm, which was filed 12-**30-13**, not 12-**13-15** as DF-AE stated. The 12-30-13 Motion to Affirm, pursuant to MCR 7.211(C)(3), was denied 2-11-14, but there was never any "renewed motion" as DF-AE claims. In an effort to make it more difficult for the MSC to verify to what the second Motion to Affirm was in regard to, DF-AE does not properly mention the filing date anywhere in this Answer.[3] This second Motion to Affirm was filed 10-17-14 and claimed the doctrine of collateral estoppel prevented PL-AT from litigating her claims against Culpert and EDI due to the 10-14-14 Opinion of the COA issued in the MEEMIC case. There was no mention of collateral estoppel in the 12-30-13 Motion to Affirm. In the 12-30-13 Motion, claims were made that PL-AT didn't cite any precedents, and that her issues of using MC 315 were not preserved. The 10-17-14 Motion does not make these claims. These two motions are completely different and therefore the second one can in no way be considered a "renewal" of the first. It

[2] It would not be necessary for PL-AT to appeal the 3-10-15 Opinion separately from the 11-25-14 Order if the content were the same. The 3-10-15 Opinion should have been a reflection of the 11-25-14 Order, and should have contained a discussion of the upholding of dismissal due to collateral estoppel, but it contained completely different reasons for upholding the dismissal of PL-AT's case. Therefore the 3-10-15 COA Opinion required a separate appeal to the MSC.

[3] The only place a date even appears in reference to the so-called "renewed" Motion to Affirm is on pg. 9 of the 3-30-15 Answer, where it is stated, "On October 14, 2014, Defendant-Appellees renewed the *Motion to Affirm* following the Court of Appeals' decision in *Filas v. MEEMIC."* The date of October 14, 2014 is incorrect, as the date of the second Motion to Affirm is October **17**, 2014.

should be noted that Culpert's 3-23-15 Answer to PL-AT's MSC Application contained arguments that were cut and pasted straight from his 12-30-13 Motion that was denied, trying to give the impression the MSC should be ruling on those issues, when they were denied by the COA on 2-11-14. Now DF-AE, EDI, is pretending as if the two motions were the same, and that the content Culpert cut-and-pasted from the 12-30-14 Motion into his 3-23-15 Answer is the same as the content in the 10-17-14 Motion. Culpert again used the cut-and-pasted content in his 4-28-15 Answer to PL-AT's 4-21-15 MSC Application, Case No. 151463. For both DF-AEs to work together to knowingly and willfully falsify the true content and outcome of the two different motions to affirm, in an effort to mislead the MSC, is egregious and fraudulent. See Exhibits O and P to compare the two Motions to Affirm from 12-30-13 and 10-17-14, respectively.

On pg. 24, ¶1 of the 3-30-15 Answer, in reference to the 11-25-14 Order of the COA, DF-AE states, "*The Court of Appeals granted the Motion and dismissed those issues in this appeal that had been decided in Filas v. MEEMIC.*" Let it be clear that no issues presented to the COA in regard to the use of MC 315, were actually truly *decided* in the MEEMIC case because the COA ruled that PL-AT was required to use only Records Deposition Services Inc. forms to provide her medical records to MEEMIC due to a protective order that had been entered in the MEEMIC case. No protective order was entered in the instant case and therefore no similarity exists in regard to the use of MC 315 between the two cases. Refer to argument II C on pg. 23-24 of PL-AT's 3-10-15 MSC Application.

The only similarity between the cases was the lower Court's refusal to accept PL-AT's desire to use, or actual use SCAO Form MC 315 in accordance with MCR 2.314(C)(1)(d) to provide discovery of her medical records to the DF-AEs instead of using a record copy service,

a third-party private business entity, not related to either case, to copy and electronically place her records into their database for perpetuity to be sold to and accessed only by selective customers, excluding PL-AT, with the potential of negatively impacting PL-AT's ability and the ability of other auto accident victims, to return to work and retain their current employment or procure alternate employment, by allowing employers and other entities access to private information they may otherwise not be legally entitled to under the law, to use to covertly or otherwise discriminate against the "victims" in the database.

On pg. 24, ¶2 of the 3-30-15 Answer, DF-AE states, "*Plaintiff-Appellant argues that the collateral estoppel doctrine does not apply to this matter for* ***two reasons****. First, Plaintiff-Appellant argues that the Court of Appeals should not have relied on the Opinion from Filas v. MEEMIC to strike issues in this appeal because the two cases involved different Defendant-Appellees. Second, Plaintiff-Appellant argues that the issues between the two cases were different."* The facts are that PL-AT stated five reasons the doctrine of collateral estoppel was inapplicable. Argument II on pg. 16 of PL-AT's 3-10-15 MSC Application states the following in pertinent part:

> *The Doctrine was inapplicable for* ***five reasons****: (1) the defendants were different; (2) the issues were not identical; (3) the issue was not actually litigated; (4) the judgment the motion was based upon was not a final judgment and was not decided on the merits; and (5) there existed no mutuality of estoppel.*

Pgs. 23-25 of EDI's 3-30-15 Answer contain a discussion that the courts have broadened the definition of collateral estoppel when it is asserted defensively, to no longer require mutuality and thus, there is no longer a requirement that the defendants must be the same, or that one party would necessarily be bound by the litigation of the other party. PL-AT now understands that the defendants can sometimes be different, and therefore reasons #1 and #5 from PL-AT's 3-10-15 MSC Application may not be applicable. Nonetheless, there are still three remaining reasons the

doctrine cannot be applied, and they have not been addressed in EDI's Answer. The issues of the two cases still have to be the same, and the party must have had a full and fair opportunity to litigate the issues, with a final judgment decided on the merits. None of these criteria were satisfied. PL-AT already presented a detailed analysis in Argument IIB on pgs. 18-23 of PL-AT's 3-10-15 MSC Application supporting her arguments that the issues in the two cases are not the same. No counter-analysis or rebuttal arguments have been provided by either DF-AE. PL-AT filed an application for leave to appeal the 10-14-14 opinion of the COA in regard to the MEEMIC case (MSC No. 150510), which was denied, but PL-AT still has an opportunity to motion for reconsideration, and therefore has not yet had a full and fair opportunity to litigate the issues. The MEEMIC case was not denied by the MSC until 5-28-15, after the 11-25-14 Order granting DF-AE's Motion to Affirm that dismissed PL-AT's case in its entirety. *Monat v State Farm* addressed the issue of the meaning of a full and fair opportunity, which "*normally encompasses the opportunity to both litigate and appeal.*" *Monat v State Farm Insurance Co.,*469 Mich 679, 691-692; 677 NW2d 843 (2004). DF-AE did not address PL-AT's pending MSC Appeal in the MEEMIC Case (MSC No. 150510). As already mentioned, the issues of MC 315 were not even litigated in the MEEMIC case because the ruling was made that a Protective Order required the sole use of unmodified, RDS forms. Therefore, Culpert's 10-17-14 Motion to Affirm, granted by the COA in its 11-25-14 Order, the Order upon which this Application is based, was both inapplicable and premature, and should be reversed by the MSC.

On pg. 26 of EDI's 3-30-15 Answer, it is stated that "*the important consideration is whether Plaintiff-Appellant had an opportunity to litigate the issue in the previous lawsuit. Plaintiff-Appellant had this opportunity in Filas v. MEEMIC while the matter was in the Circuit Court and when the matter reached the Court of Appeals.*" This is an interesting choice of

words by the DF-AE. In other words, DF-AE claims PL-AT only had the opportunity to litigate her issues while the matter was in the Circuit Court. Once the matter was processed by the COA in its 10-14-14 Opinion in the MEEMIC case, the COA ruled that due to a protective order entered in the MEEMIC case, PL-AT was required to sign only RDS forms. Then, the COA used the COA's 10-14-14 Opinion in the MEEMIC case to dispose of the instant COA case by erroneously applying the doctrine of collateral estoppel. Therefore, the matter of a plaintiff using MC 315 when no protective order exists in a case, has never been litigated and the criteria for the Doctrine of Collateral Estoppel to apply has not been met.

In regard to PL-AT's analysis provided on pgs. 18-23 Of PL-AT's 3-10-15 MSC Application, DF-AE states on pg. 26 of the 3-30-15 Answer, "*Plaintiff-Appellant argues that the Court of Appeals also erred by employing defensive collateral estopped because the issues articulated by Plaintiff-Appellant in each appeal were not identical. Plaintiff-Appellant attempts to compare and contrast the issues by focusing on the language employed by her in each Brief on Appeal. However, this Court should look beyond the literal words employed by Plaintiff-Appellant to identify the actual issue presented in both appeals."* The "literal words" that were "articulated" by PL-AT were the most concise representation PL-AT could construct of the issues of each case in her Questions Presented to the COA, most importantly, the issues surrounding the circuit court's refusal to accept SCAO Form MC 315, as mandated under MCR 2.314(C)(1)(d), a form name and court rule both the DF-ΛEs and COΛ have diligently concealed in their filings and Orders/Opinions, respectively.

Instead of mentioning the actual issue in the instant case of the circuit court's refusal to accept already executed copies of MC 315 the PL-AT had mailed to her providers so that both DF-AEs could receive copies of her medical records, on pg. 27, ¶1, DF-AE cites three reasons

the MEEMIC case and the instant case are the "same," and thus the doctrine of collateral estoppel was appropriately applied. All three are untruthful statements and without merit. PL-AT will address them below as A, B, and C.

A. DF-AE states, *"In both proceedings, Plaintiff-Appellant's lawsuit was dismissed because she failed to comply with discovery and the Circuit Court's discovery orders."*

This is not the reason PL-AT's lawsuits were dismissed. PL-AT's MEEMIC lawsuit was dismissed for the reason of the circuit court refusing to allow PL-AT to use modified RDS forms, the healthcare providers' forms, or MC 315 to disclose the records to MEEMIC. PL-AT's third-party lawsuit against Culpert and EDI was dismissed because Mr. Wright went to the Circuit Court and lied to the Court on 6-24-13. He falsely claimed PL-AT had altered the executed authorizations mailed 6-21-13, of which he received copies of from her on 6- 24-13, and falsely stated PL-AT had provided authorizations for only about half (1/2 of 27) of what he requested on 2-7-13 and in his subsequent Motion to Compel granted on 6-21-13. Mr. Wright's false claims resulted in the *sua sponte* dismissal of PL-AT's case by the Court. Mr. Wright failed to mention to the Court that he received fully executed, unaltered MC 315 forms from PL-AT for all but three providers. PL-AT inadvertently did miss 3 providers and quickly rectified it, by mailing out MC 315 authorizations to the providers on 6-24-13 and 6-26-13. Both defendants had already received and accepted PL-AT's medical records from at least one of her major providers within days after PL-AT filled out and mailed the MC 315 authorization forms to her providers on 6-19-13 for Culpert's attorney, Mr. Hassouna, and 6-21-13 for Mr. Wright, one of EDI's attorneys, and DF-AEs continued to accept records afterward as well. The Circuit Court could not legitimately reverse the 6-24-13 dismissal at PL-AT's 8-9-13 hearing on her Objections to the 7 day Order to Dismiss, nor could it order PL-AT to re-do the discovery process and fill out

Mr. Wright's personal authorization forms to release he medical records again, nor order her to sign authorizations for other records Mr. Wright had not previously requested or filed a Motion to Compel PL-AT to provide, since PL-AT's case was already dismissed *sua sponte* on 6-24-13. PPlaintiff did not file a Motion for Reconsideration of the 6-24 13 dismissal. Thus, no further orders could be made at all after the case was dismissed. It was an act of trickery, when Mr. Wright sent PL-AT a 7-day order, omitting the mandatory notice in accordance with MCR 2.602(B)(3), explaining that she could object only to the accuracy and completeness of an order already made by the court, allowing PL-AT to falsely believe she could object to the dismissal itself. The Court never even brought up PL-AT's objections at the hearing on 8-9-2013. Instead, the Court directed the first question, a tag question, to Mr. Wright: *"Okay, this is your motion?"* to which Mr. Wright falsely responded: *"Yes, for authorizations to be signed."* The Court wanted PL-AT to sign DF-AE's personal, medical authorizations forms they had brought with them to Court 8-9-13, which weren't provided at the 6-21-13 hearing, after PL-AT had already fully executed and mailed out the MC 315 Authorizations to all of her medical providers on 6-21-13 (except three mailed on 6-24-13 and 6-26-13) after she did not timely receive . Plus, the Court wanted PL-AT to sign additional personal authorization forms of Mr. Wright brought for records Mr. Wright never previously requested in his Motion to Compel heard on 6-21-13. The Court stated it was not re-considering and directed PL-AT to sign the forms. PL-AT replied: *"Not for some of the things they are asking,"* after which the court stated: "*The dismissal stands.*" There is no record of any motion filed by Mr. Wright for authorizations to be signed by PL-AT after the case was dismissed on 6-24-13 that would allow the Court to Order PL-AT to sign additional authorizations at PL-AT's hearing on objections PL-AT scheduled for 8-9-13. The Court could not re-consider, because PL-AT never filed a Motion to Reconsider, only

Objections to the 7-day Order, which was a useless waste of PL-AT's time (Exhibit M, 6-24-13 transcript pgs. 3-4; Exhibit E, 6-21-13 transcript; Exhibit D, relevant page of 2-7-13 request for production).

B. DF-AE states, *"In both proceedings, Plaintiff-Appellant steadfastly refused to sign authorizations for the Defendant-Appellees to procure medical records, employment records, and education records."*

This statement is untrue and misleading. Let it be clear that PL-AT has always been willing to provide her medical records, but she was ordered by the court to sign authorization forms instead from either a record copy service or forms written by an attorney. In the MEEMIC case, PL-AT was ordered to sign unmodified, third-party Records Deposition Services Inc. (RDS) forms, which she did not sign. PL-AT was willing to sign modified RDS forms, but the court would not accept her modifications which would have protected her records from re-disclosure by RDS to anyone except MEEMIC's attorney. However, PL-AT *did* sign MC-315 authorization forms for medical records in the instant case. She completed copies of MC 315 for all of her healthcare providers and disclosed her medical records to both DF-AEs. In the instant case, Culpert accepted the copies of MC 315 PL-AT as executed. However, EDI did not, and that is when PL-AT was ordered to re-do the process using Mr. Wright's personal forms on 8-9-13 by Judge Borman, even after Mr. Wright had received PL-AT's medical records as the result of the MC-315 forms PL-AT sent out. Employment and education records were not part of EDI's Motion to compel that was granted on 6-21-13, and were contested by PL-AT as explained in issue IV presented to the COA in her 12-20-13 Brief on Appeal. Employment records were requested by MEEMIC, and PL-AT objected to providing employment records other than wage and salary records as required under the no-fault law, MCL 500.3158. Education records were never requested by MEEMIC, as DF-AE claims. Further, as a public school teacher, PL-AT's

education records were publicly available and did not need an authorization to obtain, unless the intent of Mr. Wright to was to get permission copy PL-AT medical records and other records he received from the provider's that he would not have had using SCAO forms or getting them directly from PL-AT or her employer, so he could re-disclose her information; or in the case of MEEMIC, to get her forms in the database of a record copy service so MEEMIC could then re-disclose them or sell them to others not related to the case or so that others could legitimately access and use her private information. The "others" would even include her employer, who had PL-AT's private medical information/records in her employment file as well as that of her mother, that they could not legally re-disclose unless Plaintiff authorized re-disclosure by signing an authorization like a RDS form or Mr. Wright's form.

C. DF-AE states, "*And in both proceedings, the Court ordered Plaintiff-Appellant to sign the authorizations and dismissed the lawsuit as a discovery sanction for failure to comply with the orders.*"

As explained in items B and C above, PL-AT *did* sign authorizations for both DF-AEs in the instant case. She completed copies of MC 315. PL-AT would have signed modified RDS forms for MEEMIC, but they were not accepted by the court. PL-AT's cases were dismissed as described in item A above.

DF-AE's presentation of the issues that were supposedly "the same" in the MEEMIC case and the instant case, is based on false statements and an avoidance of the true issue that was at least similar in the two cases, which was PL-AT's desire to use MC 315 in the MEEMIC case, and her actual use of MC 315 in the instant case, and the fact that the circuit court would not allow the use of MC 315 even though it is mandated under MCR 2.314(C)(1)(d).

On pg. 27, ¶2 of EDI's 3-30-15 Answer, it is stated, "*This Court should not get caught up in Plaintiff-Appellant's incoherent Application for Leave to Appeal so as to be distracted from*

the real issue that is the focus of this appeal, as well as the appeal in Filas v. MEEMIC." If anyone should be making a statement like this, it should be PL-AT, about both DF-AEs' Answers to her Application, that are packed with falsifications of events, incorrect dates, incorrect quotations, misrepresentations and lies. EDI's 3-30-15 Answer not only avoids the real issues of the case, but also the real issues of this particular Appeal to the MSC, which are in regard only to the COA's 11-25-14 Order, its application of the doctrine of collateral estoppel, and the COA's decision to uphold dismissal of the case without oral arguments without following its internal operating procedures of notifying the parties so they can object. In this Application, the MSC is <u>not</u> examining the Circuit Court's actions or the merits of PL-AT's issues presented to the COA, or even the 3-10-15 COA Opinion (since the Opinion is being appealed separately in MSC Case No. 151463 with the request that the 3-10-15 Opinion is invalidated since it was issued after the COA already upheld case dismissal using the justification of the doctrine of collateral estoppel in its 11-25-14 Order).

On pg. 27, ¶2 of EDI's 3-30-15 Answer, it is stated, "*Plaintiff-Appellant believes the Michigan Court Rules do not apply to her, she refused to comply with well established discovery procedures, and she disobeyed the Circuit Court's Orders on numerous occasions."* There were not <u>numerous</u> occasions to disobey any of the court orders---only <u>one</u> occasion, as PL-AT was only legitimately ordered one time to produce medical record authorizations to DF-AE EDI, on 6-21-13, and she provided copies of executed MC 315 on 6-24-13. It is the DF-AEs and the circuit court that believe the Michigan Court Rules do not apply to them, as they are the ones who refused to allow PL-AT to use SCAO-mandated form MC 315 as provided under MCR 2.314(C)(1)(d). Whether it is the common, or, "well established" discovery procedure for a plaintiff in a personal injury case to provide record copy service authorization forms, or other

forms that allow for re-disclosure of PL-AT's medical records compromising PL-AT's privacy in perpetuity, it, nonetheless, is not a required discovery procedure under any court rule. PL-AT has the right to use MC 315 under MCR 2.314(C)(1)(d). Still, DF-AE is confusing the court by even discussing this issue because the MSC is not to be considering the actions of the circuit court at this point---only the actions of the COA when it used the doctrine of collateral estoppel to justify the dismissal of PL-AT's case in its 11-25-14 Order and without holding any oral arguments and without notification there would be no oral arguments. The Opinion of the COA in Case No. 316822 upon which the COA granted Culpert's Motion to Affirm and dismissed the entire instant case on 11-25-14, was based upon a protective order in the separate MEEMIC case that was non-existent in the instant case.

On pg. 27, ¶2 of EDI's 3-30-15 Answer, it is stated, "*For that reason, the Circuit Court dismissed her lawsuit and the Court of Appeals correctly struck previously litigated issues and affirmed the remaining issues.*" Again, PL-AT's case was not dismissed for the reasons quoted in the previous paragraph. It was dismissed for the court's refusal to accept already executed and mailed copies of MC 315. None of PL-AT's issues were previously litigated in the MEEMIC case since the COA ruled that the Protective Order in the case prevented her from using MC 315 or any other form besides unmodified RDS forms. The COA had no legal right to affirm the remaining issues in a separate Opinion issued on 3-10-15 after it had already upheld the dismissal of the entire case due to collateral estoppel on 11-25-14. The upholding of dismissal of a case cannot be done on two different dates, for two different reasons. Only the first time can be the legal Order of the Court. PL-AT argues that the 3-10-15 Opinion is therefore invalid, and it has been separately appealed to the MSC on 4-21-15 (MSC No. 151463).

In conclusion of section II, it should be clear that EDI has attempted to confuse the Court

as to the true issues it should be examining. The MSC needs only to determine whether or not issues I-III and VI are the same as those presented in PL-AT's MEEMIC appeal, and if so, determine whether or not the issues were actually litigated, whether or not the appeal process must be exhausted before collateral estoppel can be applied, and whether or not oral arguments should have been held before the order to uphold dismissal was made on 11-25-14. These are the arguments for which PL-AT has provided support in her 3-10-15 MSC Application. The MSC is only examining the actions of the Court of Appeals, not the Circuit Court, because the COA did not actually affirm any of the circuit court's actions in its ruling, and instead injected its own contrived argument regarding the PO that was never presented, preserved or litigated in the lower court. Let it be clear PL-AT's 3-10-15 Application is only in regard to the 11-25-14 Order of the COA, not the Opinion issued 3-10-15, since it was the 11-25-14 Order that upheld dismissal of the case due to the COA accepting Culpert's arguments that the doctrine of collateral estoppel was applicable, not the Opinion, issued after the case was already dismissed on 11-25-14, which contains different reasons for case dismissal.

III. The COA violated Internal Operating Procedure 7.214(E) when it did not notify the parties that the case would be submitted to a panel without oral argument. The requirements of MCR 7.214(E) were not satisfied in order to decide Culpert's 10-17-14 Motion to Affirm without oral arguments. DF-AE purposely used the wrong number for the aforementioned court rule throughout the Answer, to give the appearance that PL-AT did not already argue it in her 3-10-15 Application. DF-AE also cites the wrong number for the associated IOP because IOP 7.214(E) contains arguments that support PL-AT's position.

On pg. 27-28 of EDI's 3-30-15 Answer, DF-AE claims that PL-AT failed to provide this court with any source of law whatsoever regarding her argument that she was denied due process because she was denied oral arguments for the issues on appeal, and states that the court should

not determine this for her. PL-AT clearly explained that MCR 7.214(E) was violated. This court rule was directly in the heading of argument I on page 4 of PL-AT's 3-10-15 MSC Application. It would be misleading enough for DF-AE to argue that PL-AT did not cite any legal justification for arguments, but even worse, the DF-AE has cited the very court rule PL-AT argued in her application, but gave it the wrong number, and referred to it as MCR 7.21**3**(E) instead of MCR 7.21**4**(E) so the court may think PL-AT did not argue against the only court rule that pertains to motions being heard without oral arguments, 7.21**4**(E), when she clearly rebutted each of the three items listed in this rule that could have allowed the COA to make a ruling without oral arguments on pgs. 15-16 of her 3-10-15 Application, explaining that none of them applied.

According to MCR 7.21**4**(E)(1), there are only three reasons that the COA is permitted to make a decision without providing oral arguments. There must be a unanimous decision by the panel concluding that:

(a) The dispositive issue or issues have been recently authoritatively decided;

(b) the briefs and record adequately present the facts and legal arguments, and the court's deliberations would not be significantly aided by oral argument; or

(c) the appeal is without merit.

There is no document in the court file that indicates that the panel that made the 11-25-14 order to grant Culpert's Motion to Affirm, unanimously concluded any of the three items above.

MCR 7.214(E)(1)(a) clearly would not apply because the issue of whether or not a plaintiff can use SCAO-mandated Form MC 315 has never been authoritatively decided by the COA. In the MEEMIC case, MSC Case #150510, the COA avoided ruling on this issue by presenting the novel argument that it was a protective order entered in this case that prevented PL-AT from being able to use MC 315 to provide her medical records to the defendant.

MCR 7.214(E)(1)(b) clearly would not apply because if the COA wanted to claim that

the briefs and record adequately presented the facts and legal arguments, and that the court's deliberations would not be significantly aided by oral argument, then the 11-25-14 order would not have separated out items IV and V for oral argument to be heard on 3-3-15.

MCR 7.214(E)(1)(c) clearly would not apply because if the COA wanted to claim that PL-AT's appeal was without merit, it could have done so in its 11-25-14 order, rather than leaving items IV and V for oral argument to be heard on 3-3-15.

Therefore, since no oral arguments were held on Culpert's 10-17-14 Motion to Affirm, against PL-AT's request under MCR 7.214(A), and the oral arguments session held 3-3-15 in regard to items 4 and 5 was meaningless due to the prior 11-25-14 Order that upheld dismissal of the entire case, the COA violated MCR 7.214(E) by making a decision without providing a legitimate oral argument hearing. The COA also violated the associated internal operating procedure 7.214(E) that required notification to the parties if the case was going to be submitted for decision without oral argument. PL-AT requests that the MSC grant this Application for Leave to Appeal so that her case can be remanded to the COA for oral arguments on all 6 items presented in PL-AT's 12-20-13 Brief on Appeal so she can receive due process.

On pgs. 28-29 of EDI's 3-30-15 Answer, in regard to the COA's 11-25-14 Order that upheld the dismissal of PL-AT's entire case, DF-AE points out that the decision was unanimous, as a decision to grant a motion to affirm must be unanimous according to MCR 7.211(C)(3). It is not clear why this information is relevant except that it may be an attempt to confuse the court about the other applicable court rule MCR 7.214(E)(1), mentioned above, which required a unanimous conclusion in regard to which of the three reasons could allow the COA to hear a motion without providing oral arguments. As explained above, none of the three requirements outlined in MCR 7.214(E) were satisfied to permit the COA to dispense with oral arguments.

On pg. 29, ¶2 of EDI's 3-30-15 Answer, it is stated, "*Furthermore, Plaintiff did not have the right to oral argument on her two remaining issues.*" DF-AE states no basis for this claim, nor is any rebuttal provided to PL-AT's Argument IB1 on pg. 14-15 of PL-AT's 3-10-15 MSC Application, which explained she had met the requirements of MCR 7.214(A) and properly requested oral arguments on the front page of both her Answer to Culpert's 10-17-13 Motion to Affirm, and in her 12-20-13 COA Brief on Appeal. Therefore, the COA should not have upheld the dismissal of PL-AT's case by granting Culpert's 10-17-13 Motion to Affirm without holding oral arguments. DF-AE continues, "*With that being said, the Court of Appeals gave Plaintiff-Appellant the opportunity to argue her case. Plaintiff-Appellant, however, declined that opportunity by chastising the Panel instead of arguing her issues.*" It is not true that PL-AT declined the opportunity to argue her case, nor can anything PL-AT said be considered "chastising the Panel," as can be evidenced by listening to the approximately 5-minute audio recording of the 3-3-15 COA hearing. Let it be clear that this "opportunity" was given to her by the COA panel after PL-AT had already explained the following to the panel:

> *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 case caption. EDI is represented by two different attorneys, representing two different companies. EDI has a $1,000,000 policy with each company. Kevin Culpert has a $20,000 policy liability policy with Progressive Insurance Company.*
>
> *Even though I fulfilled my obligation to provide medical records to both Defendants by executing and mailing SCAO-mandated Form MC 315 to over 20 health care providers, the circuit court granted EDI's motion to dismiss my entire case against both Culpert and EDI, for my 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.*
>
> *I also have a first-party case against MEEMIC Insurance Company pending in the MSC in which I <u>requested</u> to use MC 315, but hadn't actually <u>provided</u> records to the defendant yet, as I have 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*

that case, I could not use MC 315 to provide my records to MEEMIC and had to instead use third-party record copying service forms provided by MEEMIC.

On November 25, 2014, with neither the Plaintiff-Appellant or the Defendant-Appellees present, the COA heard and issued an order on Culpert's Motion to Affirm, which argued that the doctrine of collateral estoppel barred me, the Plaintiff-Appellant, from having the same claims against Culpert and EDI, since the COA had ruled in the MEEMIC case that I could not use MC 315 to provide my medical records. Not only is there no Protective Order in the instant case upon which the MEEMIC opinion is based, but they are completely different defendants and different insurance companies. Collateral estoppel cannot bar a plaintiff from making the same or similar claims against <u>different</u> defendants. Nonetheless, the COA granted the Motion to Affirm for items 1-3, and 6 that were presented in my brief on appeal.

This hearing is therefore supposed to be only in regard to items 4 and 5 from my brief on appeal. However, by the COA affirming item 3, they affirmed that the circuit court did not err when it dismissed my entire case.

Therefore, anything I argue today in regard to items 4 and 5 would be moot, since there only needs to be <u>one</u> reason to dismiss a case. By its granting of item 3, the COA has already chosen to affirm the circuit court's dismissal of the entire case for my refusal to complete forms provided by the Defendant. The case can't be dismissed twice. I now have to argue item 3 in the Supreme Court if I want to try to reverse the COA's upholding of the circuit court's dismissal of my case.

At this point, PL-AT was cut off by Judge Gleicher, who commented, "*And you understand that this panel didn't sign those orders. We're bound by those orders but we didn't sign them*." PL-AT acknowledged this and pointed out that one of the judges, Karen Fort Hood, on the 3-3-15 panel, was shown to have been on the 11-25-14 panel that signed the 11-25-14 Order to dismiss PL-AT case in its entirety. Judge Gleicher explained that they rule on about 40 motions a month and that it wouldn't surprise her if Judge Fort Hood was on that panel, although Judge Fort Hood did not acknowledge a recollection of having been on the 11-25-14 panel. PL-AT respectfully pointing out the fact that Judge Gleicher's statement that members on the current panel didn't sign the orders that upheld the dismissal was incorrect, cannot be considered "chastising the panel," when all PL-AT did was correct a misstatement for the record.

PL-AT then continued with her oral arguments, "*What I'm basically saying is, that panel dismissed the case. Item III was---involved dismissal of the entire case. So I---I guess I don't really understand the purpose of this hearing since the matter was already decided by the COA's November 24th [meant to say 25th] Order which upheld the dismissal of the entire case, so arguing issues IV and V at this time wouldn't have any impact or purpose whatsoever because even an outcome in my favor is not going to change the November 24th [meant to say 25th] order that already dismissed the entire case under item III.*" Judge Gleicher never asked PL-AT any questions in regard to item III. Judge Gleicher's response was, "*Well you've raised a very interesting jurisdictional question that I have to say evaded the rest of us so if you want to continue to argue the issue that is before us, feel free.*" PL-AT responded, "*I just, like I said, I don't see any point---*" At the time, PL-AT interpreted "the issue that is before us" to mean Issues IV and V that were supposed to be heard that day. PL-AT now realizes this statement could also be interpreted to mean that she could continue arguing the issue of her case already having been dismissed by the 11-25-14 Order. Judge Gleicher then informed PL-AT that if PL-AT's analysis was correct, her time for appealing to the MSC was ticking, which PL-AT acknowledged.

On pg. 29, ¶2 of EDI's 3-30-15 Answer, it is stated, "*Of course, Plaintiff-Appellant concludes that she had the right to oral argument because the Court of Appeals gave her the hearing in the first place. She claims that the Court of Appeals must have determined she had the right to oral argument because it did not cite to MCR 7.213(E) and decline oral argument.*" The above conclusive argument does not appear in PL-AT's Application or in any of PL-AT's COA filings and is fabricated by the DF-AE. Also, once again, DF-AE has cited the wrong

number for this court rule[4]. Again, it is MCR 7.21**4**(E) that governs Motions to Affirm and which contains the three reasons they may be decided without oral arguments, not MCR 7.21**3**(E). Let it be clear there are two occurrences in which PL-AT did not receive proper oral arguments, that together resulted in her entire case being disposed of without any legitimate oral argument session. The first occurrence was when she was denied any oral arguments hearing at all for Culpert's 10-17-14 Motion to Affirm, which was granted on 11-25-14 and upheld the dismissal of the case based on the doctrine of collateral estoppel. This motion was only granted in part, for issues I – III, and VI of PL-AT's 12-20-13 COA Brief on Appeal. Issues IV and V were left behind to be heard by the COA on 3-3-15. However, since the COA already upheld the dismissal of the case on 11-25-14, they could not reverse the dismissal by hearing PL-AT's oral arguments on issues IV and V on 3-3-15, and this resulted in the denial of a valid oral argument session on 3-3-15, the sum total being that PL-AT was denied any oral arguments at all on her 12-20-13 Appeal to the COA.

The Michigan Court of Appeals Internal Operating Procedures ("IOP") do not allow for the COA to decide a case without oral argument without notifying the parties that it is going to be submitted to a panel without oral arguments and allowing the parties to object by motion. PL-AT was never notified by the COA that her case was going to be submitted to a panel without oral argument, thus IOP 7.214(E) was violated. DF-AE only discusses the court rule that allows a motion to affirm to be decided without oral arguments, MCR 7.214(E) which is erroneously referred to by DF-AE as MCR 7.213(E). However, the IOP 7.214(E), which corresponds with MCR 7.214(E), would not have allowed for the decision on the motion to affirm to have been made without oral arguments. DF-AE conceals this fact by using the wrong procedure number

[4] As explained on pgs. 38-39, DF-AE purposely referred to MCR 7.214(E) as MCR 7.213(E) in order to give the appearance that PL-AT did not argue this court rule in her 3-10-15 MSC application, when in fact, she provided rebuttals for each of the three reasons that a motion may be decided by the COA without oral argument.

of the COA IOP, as explained below, and not citing the pertinent content of IOP 7.214(E), which corresponds to MCR 7.214 in regard to deciding motions to affirm without oral argument.

On pg. 29, ¶2 of EDI's 3-30-15 Answer, it is stated, "*The Michigan Court of Appeals Internal Operating Procedures at IOP 714(E) expressly state that unanimity is not required to decide a case without oral argument.*" There is no such thing as IOP 714(E). The pertinent IOP in regard to decisions without oral argument is IOP 7.214(E), the procedure corresponding to court rule 7.214(E), in regard to deciding motions to affirm without oral argument:

> **IOP 7.214(E)—Decision Without Oral Argument**
> The parties will be notified in writing if a case is submitted to a panel without oral argument pursuant to MCR 7.214(E). If a party believes oral argument is necessary in the case, the party should immediately file a motion for oral argument before the panel. The panel has the discretion, even absent a motion, to determine that the case requires oral argument. If this occurs, the parties will be notified of the date and location of the hearing before that panel.

Therefore, PL-AT should have been notified by the COA in writing that her case was going to be submitted to a panel without oral argument so that she could have filed a motion to object.

On pg. 29, ¶2 of EDI's 3-30-15 Answer, it is stated, "*Moreover, there is nothing written in the rule preventing a Panel of the Court of Appeals from deciding a matter can be decided without oral argument but giving the appellant and appellee the opportunity to argue anyway.*" Since there are provisions for hearing motions without oral arguments in MCR 7.214(E) and IOP 7.214(E), it would be expected that the COA would follow these procedures and provide the appropriate notice to the parties when the COA believes it has a legitimate reason to deny oral arguments on a case. DF-AE suggests that nothing prevents the COA from giving the opportunity to present oral arguments anyway, but one would not expect that the COA would hold a bogus hearing, and waste judicial resources and everyone's time if the COA was not legally required to hear oral arguments, because this simply would not make any common sense.

More importantly, PL-AT argues that MCR 7.214(E) and its associated IOP would never allow for oral arguments to take place once it was decided that they were not necessary because the appeal would go straight to the panel for a decision, in accordance with IOP 7.214(E). If this IOP were actually followed, the COA would be prevented from even *scheduling* an oral arguments session, and a situation like the PL-AT's would never have even occurred. DF-AE's argument is therefore without merit.

On pg. 29, ¶2 of EDI's 3-30-15 Answer, it is stated, "*Perhaps what is most telling about the Court of Appeals' apparent intent in this matter is this: the Panel issued one Opinion from that hearing on March 10, 2015—there were no concurring opinions or dissents.*" Whether there were any concurring opinions or dissents does not change the fact that PL-AT did not receive any valid oral arguments session for any of the arguments I – VI of her 12-20-13 appeal to the COA. Further, the COA may have only issued one opinion on 3-10-15, but most importantly, the COA issued an 11-25-14 order that upheld the dismissal of the case. Upholding dismissal can only be done once, and it occurred on 11-25-14. The 3-10-15 opinion upholds the dismissal of the case for different reasons that the 11-25-14 order. If any opinion was to be issued at all, it should have contained only a discussion of the justification for using the doctrine of collateral estoppel to uphold the dismissal of PL-AT's entire case. PL-AT has separately appealed the 3-10-15 opinion to request its invalidation since the 11-25-14 order resulted in the actual upholding of the dismissal of the case (MSC Case No. 151643).

On pg. 29, ¶2 of EDI's 3-30-15 Answer, it is stated, "*Plaintiff-Appellant can assume that this Court is aware of one's actual due process rights, and the Court would not have crafted the Michigan Court Rules so as to violate any of those rights. This Court gave the Court of Appeals discretion with entertaining oral arguments. The Court of Appeals adhered to that discretion and*

properly ruled on the issues below. There was no error. Moreover, Plaintiff-Appellant's due process rights were not violated and therefore there is no substantial legal issue for this Court." PL-AT agrees that the Court rules are not crafted to violate any due process rights. It is clear there are certain situations where oral arguments do not have to be granted, but they did not apply in PL-AT's case, as argued above. The court rules and internal operating procedures for 7.214(E) simply were not followed by the COA when it ruled on the 10-17-14 Motion that upheld dismissal of the entire case on 11-25-14 without providing oral arguments and without notifying the parties that the case would be submitted to a panel for decision without oral argument to that PL-AT could have had the opportunity to object. Therefore, PL-AT's due process rights *were* violated by the COA.

In summary, it is clear this section of DF-AE's Answer purposely concealed the true basis of PL-AT's arguments in regard to why she was entitled to oral arguments on Culpert's 10-17-14 Motion to Affirm, and on her case in general, by presenting faulty arguments and claiming they were the PL-AT's arguments, avoiding mention of PL-AT's real arguments, mis-citing MCR 7.214(E) to give the appearance PL-AT did not already argue it, mis-citing the corresponding IOP 7.214(E) and avoiding mention of the true basis of this IOP that outlines the procedures for deciding a case without oral argument. DF-AE has therefore not provided any valid arguments in regard to why PL-AT was not entitled to oral arguments on her appeal to the COA.

CONCLUSION/RELIEF REQUESTED

On pg. 30, ¶1 of the Conclusion of EDI's 3-30-15 Answer, DF-AE claims "*this Court should deny Plaintiff-Appellant's Application for Leave to Appeal because she has not provided this Court with a question that warrants this Court's review.*" PL-AT presented more than one question that warrant this Court's review. Below are the 3 questions from PL-AT's 3-10-15 MSC Application, which definitely warrant the court's review for the reasons provided in PL-AT's Statement of Jurisdiction:

I. Did the COA err in failing to provide a legally valid hearing on oral arguments when it made its 11-25-14 Order to grant DF-AE's Motion to Affirm in part for items 1-3 and 6 of PL-AT's Brief on Appeal, which then rendered the 3-3-15 oral arguments hearing moot in regard to PL-AT's remaining items 4 and 5, when these two items that had the potential to reverse the dismissal of one or both parties to the case?

II. Did the COA wrongly apply the Doctrine of Collateral Estoppel when it granted Culpert's Motion to Affirm for items 1-3 and 6 of PL-AT's Brief on Appeal, when the doctrine was inapplicable for five reasons: (1) the defendants were different; (2) the issues were not identical; (3) the issue was not actually litigated; (4) the judgment the motion was based upon was not a final judgment and was not decided on the merits; and (5) there existed no mutuality of estoppel?

III. Did the COA err by upholding the circuit court's decision to order Plaintiff-Appellant to provide medical record authorization forms of Efficient Design's choice to Efficient Design without establishing that they were a liable party to the case, by applying the Doctrine of Collateral Estoppel, when it clearly was inapplicable to this third-party case, as there was no question of liability in the first-party *Filas v MEEMIC* case upon which the Doctrine was applied?

After further research, PL-AT admits that it may be possible to apply the doctrine of collateral estoppel to a case with different defendants. However, PL-AT still has provided other valid reasons that the COA's 11-25-14 Order erroneously applied the doctrine, i.e. that the issues were not the same as those in the MEEMIC case, the issues of any similarity at all were not actually litigated in the MEEMIC case, and the COA's decision in the MEEMIC case is not final

since the PL-AT can still motion the MSC for a reconsideration; and there is still the issue of the COA upholding the dismissal of PL-AT's entire case without holding a valid oral arguments session, denying her due process. Therefore, the only remedy is to remand PL-AT's case back to the COA for oral arguments on all six issues presented in PL-AT's 12-20-13 COA Brief on Appeal so that a legitimate Opinion can be issued that encompasses all six issues.

On pg. 30, ¶1 of the Conclusion, DF-AE claims PL-AT "*fails to identify any legal support for her claim" "that the Court of Appeals violated her due process rights by denying her oral argument on all the issues she presented in her Brief on Appeal."* This statement is untrue, as explained in Argument III on pgs. 38-47 of this Reply. DF-AE falsified the court rule number to give the appearance that PL-AT did not argue the applicable court rule, MCR 7.21**4**, when she clearly explained in her 3-10-15 MSC application that she properly requested oral argument on the front page of both her Answer to Culpert's 10-17-13 Motion to Affirm, and in her 12-20-13 COA Brief on Appeal in accordance with MCR 7.214(A); and provided rebuttals for each of the three reasons outlined in MCR 7.214(E) that the court can decide a motion without providing oral arguments. PL-AT further adds that the COA's Internal Operating Procedure 7.214(E), that corresponds with MCR 7.214(E), requires that the COA notify the parties that the case will be submitted to a panel that will decide the case without hearing oral arguments. PL-AT received no such notice, which is clearly a violation of IOP 7.214(E). Therefore, the COA erred by upholding the dismissal of the case on 11-25-14 without providing oral arguments.

On pg. 30, ¶1 of the Conclusion, DF-AE claims PL-AT's "*position also presumes that she had a right to oral argument in the first place Because Plaintiff-Appellant's presumption is not in accord with the Michigan Court Rules, Plaintiff-Appellant's claim of error as no merit."* As explained briefly above, and in detail on pgs. 38-47, it is the COA that violated MCR 7.214(E)

and IOP 7.214(E) when it upheld the dismissal of PL-AT's case without hearing oral arguments, since PL-AT properly requested them under MCR 7.214(A). PL-AT *does* have a right to oral argument unless at least one of the three criteria under MCR 7.214(E) is satisfied, and if that were the situation, the COA should have notified PL-AT in accordance with IOP 7.214(E) so that she could have objected by motion.

On pg. 30, ¶2 of the Conclusion, in regard to PL-AT's arguments that the application of the doctrine of collateral estoppel could not legitimately be applied, DF-AE only mentions PL-AT's arguments about the defendants not being the same, and that the issues were different. PL-AT also argued that the issue of using MC 315 was not actually litigated and that she had not completed the appeal process for the MEEMIC case, and therefore did not have a "full and fair" opportunity to litigate the issues. Nonetheless, the issues were definitely not the same as explained in the detailed analysis of both cases in Argument IIB on pgs. 18-23 of PL-AT's 3-10-15 MSC Application, especially Issue I of PL-AT's 12-20-13 COA Brief on Appeal, in regard to liability, since the MEEMIC case did not involve a dispute about liability. DF-AE's comparison of the issues that were supposedly the same was factually erroneous, as explained on pgs. 31-35 of this Reply, and did not even mention the real similarities between the MEEMIC case and the instant case, which was PL-AT's desire to use MC 315 in MEEMIC case, and actual use of MC 315 in accordance with MCR 2.314(C)(1)(d) in the Culpert and EDI case. Clearly, the COA erred in its application of the doctrine of collateral estoppel to uphold the dismissal of the entire case with its 11-25-14 Order.

On pg. 30, ¶2 of the Conclusion, DF-AE states, "*Plaintiff-Appellant's lawsuits were dismissed as a sanction for repeated, intentional violation of the Circuit Court's Orders to sign authorizations for records provided by the Defendant-Appellees.*" Again, this is not the reason

PL-AT's lawsuits were dismissed. PL-AT's first party case was dismissed for the Court's refusal to accept modified RDS medical authorization forms, the health care providers' forms, or MC 315. The third-party case was dismissed due to the Court's refusal to accept the already executed copies of MC 315 forms delivered by PL-AT and received by the DF-AEs, Culpert and EDI, before a 6-24-13 special conference where the lower court dismissed PL-AT's case *sua sponte* without notifying PL-AT of the order until after the fact. PL-AT has provided evidence DF-AEs accepted medical records obtained as the result of the MC-315 authorizations executed by PL-AT 6-21-13 before the 8-9-13 hearing (Ex. J). Again, this Court is not supposed to be determining whether the circuit court erred in dismissing the case, as DF-AE continues to mislead the MSC to believe. This Application is does not involve the MSC making any determination about the proceedings at the Circuit Court level. It only pertains to the 11-25-14 Order of the COA to grant Culpert's 10-17-14 Motion to Affirm based on the doctrine of collateral estoppel, and whether or not the doctrine was applicable to issues I-III and VI of PL-AT's Appeal, and whether or not the 11-25-14 Order that upheld dismissal of PL-AT's entire case was in violation of IOP 7.214(E) that requires notice to parties if a case is to be determined without oral arguments, and whether PL-AT's appeal could have even legitimately been determined without oral arguments in accordance with MCR 7.214(E).

On pg. 31, ¶2 of the Conclusion, DF-AE states, *"The Application for Leave to Appeal presents nothing more than Plaintiff-Appellant's final effort to continue her fruitless litigation."* PL-AT's litigation has only been "fruitless" because the COA does not want to rule on the issue of MC 315. In the MEEMIC case before the COA, the 10-14-14 Opinion used the excuse that a protective order was the reason PL-AT could not use MC 315 and had to use RDS forms instead, which was an argument that was never raised, preserved or presented by MEEMIC in any filings.

In the instant case, the COA erroneously applied the doctrine of collateral estoppel, using the MEEMIC case to block PL-AT from litigating her issues in regards to her use of MC 315, and avoided making a decision as to whether or not plaintiffs could use MC 315 to provide medical records to defendants in the absence of a protective order. PL-AT sincerely hopes that the MSC will grant PL-AT's application for leave to appeal so PL-AT can continue her pursuit of justice to eventually obtain a ruling by the COA or the Michigan Supreme Court to uphold MCR 2.314(C)(1)(d) without further stalling by DF-AEs and the refusal by the COA to address this court rule in their Opinions, and the refusal of the lower court to follow this rule that it is mandated to follow when a Plaintiff in a personal injury case exercises their right to choose to provide discovery of their medical records using SCAO-mandated Form MC 315, so that PL-AT's cases can be reinstated and she can be fairly compensated for her injuries sustained in the auto accident.

On pg. 31, ¶2 of the Conclusion, DF-AE states, *"Even if this Court were to remand all issues to the Court of Appeals, the Court of Appeals has already made it clear that the Circuit Court did not abuse its discretion when it dismissed the lawsuit."* This is untrue. The COA has not actually affirmed any of the circuit court's actions. As explained in the previous paragraph, in the MEEMIC case, the COA used the protective order to avoid ruling on whether or not PL-AT should have been able to use MC 315. Then, the COA used the doctrine of collateral estoppel to again avoid ruling on the issue of MC 315. Therefore, the COA never actually affirmed the circuit court's refusal to accept already executed copies of MC 315 and its sanction of dismissal for PL-AT's refusal to redo the process using Mr. Wright's personal authorization forms. The COA avoided making such an affirmation that "the Circuit Court did not abuse its discretion when it dismissed the lawsuit," as DF-AE claims it did, by upholding the dismissal of

the case due to the doctrine of collateral estoppel in its 11-25-14 Order, which did not justify any of the circuit court's actions---it just prevented PL-AT from litigating them. The COA cannot uphold the dismissal of PL-AT's case on two different dates, for two different reasons. The 3-10-15 COA Opinion discusses different reasons for upholding case dismissal than the 11-25-14 order, which is the reason all six arguments need to be presented for oral argument before the COA, so that a legitimate opinion can be issued, that encompasses all six issues presented to the COA, in one consistent Opinion.

On pg. 31, ¶2 of the Conclusion, DF-AE states, *"If the Court of Appeals were to remand the matter to the Circuit Court, it is clear from Plaintiff-Appellant's conduct that she will never sign the authorizations provided by the Defendant-Appellees."* Without knowing what forms the DF-AEs will provide, a conclusion cannot not be made as to what PL-AT will or will not sign. This is not about who provides the forms, but the language on the forms provided and whether PL-AT is required by law to sign a particular form with language that does not conform with the mandated Form MC 315 without assurance her information will not get into the hands of persons who are not entitled to it by law. DF-AE infers PL-AT's conduct would be an undesirable outcome. If exercising her rights under the law by not signing forms the law does not require PL-AT to sign in order to provide the medial records necessary to litigate her case, then it the DF-AE, an officer of the court, who should be chastised for suggesting exercising legal rights is a negative action. The basis of PL-AT's case is that she should be allowed to use MC 315 instead of the authorizations provided by the DF-AEs. If the MSC remanded this case back to the COA, the COA would have to hear all the issues of the case. If the Court of Appeals were to then remand the matter to the Circuit Court, part of their Opinion would be in regard to whether or not PL-AT is permitted to use MC 315. If the COA ruled that she could not use MC 315, the

case would not even be remanded since the COA would be agreeing with the circuit court that case dismissal was appropriate. Therefore, the only way the case could even be remanded back to the circuit court would be if the COA agreed with PL-AT that her executed copies of MC 315 should have been accepted by the circuit court. Upon remand, there would be no more dispute over signing the DF-AE's authorizations because the COA would have ruled that MC 315 was an acceptable form to use.

On pg. 31, ¶3 of the Conclusion, DF-AE states, *"It is clear from her obstreperous behavior throughout the proceedings that Plaintiff-Appellant had no intention of participating in the judicial process; at least not according to the rules."* To the contrary, PL-AT has *only* wanted to follow the rules, but the DF-AEs and courts will not allow her to follow MCR 2.314(C)(1)(d), the rule which mandates the use of SCAO Form MC 315 to provide medical records to the DF-AEs. PL-AT would have provided copies of her medical records, but neither her own attorney who had agreed to allow her to provide her own copies of her medical records for discovery when she hired him, the Court or the DF-AEs would accept her own copies of her medical records, even though all Mr. Wright asked for in his 2-7-13 Request for Production, were copies of medical records, not authorization forms, which leads PL-AT to believe there is more to this than just PL-AT's right to use MC 315 forms.

On pg. 31, ¶3 of the Conclusion, DF-AE states, *"Despite the clear edict of the Circuit Court that the Defendants were to have free access to her medical records, Plaintiff-Appellant insisted that she must be in control and that she would be the ultimate arbiter of what would be divulged and when."* There is no court rule that permits "free" or "open" access to medical records, nor has DF-AE cited one. The only court rule pertaining to divulgence of medical information is MCR 2.314, the rule PL-AT has been trying to get the courts to uphold, so that her

use of MC 315 to provide her medical information to DF-AEs is considered to have completed her obligation to produce the requested discovery. PL-AT provided any and all records, back to birth, from all health care providers (Exhibits A, B, I, J). DF-AEs who request medical records beyond medical records pertaining to physical injuries that are "protected," such as psychological, psychiatric or alcohol or drug abuse records must prove legitimate reasons for requesting those kinds of records. PL-AT denies she acted as the ultimate arbiter. Clear Court rules, such as MCR 2.314(C)(1)(d), should not even have to be arbitrated. Mr. O'Malley does not give PL-AT the respect worthy of an ultimate arbiter. His lying, name-calling and innuendo, from PL-AT's experience, is the typical legal bullying to be expected of an attorney that has a lack of laws or rules to cite to back up his arguments.

On pg. 31, ¶3 of the Conclusion, DF-AE states, *"While she would attempt to divert the Court's attention to the "form" of the releases provided, the "substance" of this dispute (which was well known to the Circuit Court) was that the Plaintiff-Appellant would not divulge the discoverable information freely. She took every opportunity to obstruct the process."* DF-AE's claim PL-AT would not divulge discoverable information freely, and that the substance of the dispute was that PL-AT obstructed the process is unfounded and unsubstantiated. PL-AT freely provided both of her attorneys with medical records and was willing to provide that information freely to the other parties involved in the litigation of her case who needed the information, as long as it was protected from re-disclosure. However, PL-AT's second attorney, instead of working with her on a PO with a binding agreement that would accomplish this, behind her back, entered into a stipulated PO with no binding agreement with MEEMIC that was basically the same, ineffective PO filed for entry by her prior attorney, Terry Cochran. Because of the difficulty PL-AT was having with her second attorney, and his acceptance of his dismissal by

PL-AT after she discovered he had entered the ineffective PO, and had refused to defend her right to provide her own medical records, as agreed upon earlier, coupled with the refusal of the DF-AEs to acknowledge PL-AT as a pro per litigant, PL-AT was not able to get an effective PO written and entered before the Motion to Compel hearing on 6-21-13. Thus, although there was no Protective Order in the instant case, PL-AT nonetheless demonstrated her willingness to freely allow the release of her medical records by fully executing the SCAO MC 315 authorization forms on 6-19-13 and 6-21-13, to Culpert and EDI, respectively (Ex. A, B, I, J).

On pg. 31, ¶3 of the Conclusion, DF-AE states, *"Eventually, the Circuit Court gave her a last chance: sign the releases that are presented to you or I dismiss your case."* This so-called "last chance" was given at the 8-9-13 hearing on PL-AT's objections to Mr. Wright's seven-day order of dismissal, whereby PL-AT was misled by the court and the attorneys to believe the Court could reverse the dismissal of her case, when it could not, since MCR 2.602(B)(3) only permitted "objections to the accuracy and completeness of the order," and Mr. Wright left that required notice that off the Order to deceive PL-AT. This "last chance" was also *after* the case was dismissed 6-24-14, and PL-AT had already executed and mailed copies of MC 315 to twenty-some health care providers, from which Mr. Wright had already been receiving PL-AT's medical records for over 6 weeks, and the Court still tried to ordered PL-AT to re-do the process using Mr. Wright's personal forms.

On pg. 31, ¶3 of the Conclusion, DF-AE states, *"Despite the ultimatum, Plaintiff-Appellant took one last stab at maintaining control, herself."* DF-AE makes a point that PL-AT is pro per, which should not make any difference. It should be understood that PL-AT did argue on 8-9-13 that her executed MC 315 forms should have been acceptable to the court, and she should have had such "control," since it was already a "given" that court rule, MCR

2.314(C)(1)(d) that mandated the use of MC 315, was PL-AT's choice to exercise. PL-AT had to handle this issue on her own because her attorney, Mr. Salisbury, breached his hiring agreement by refusing to stand up for her right to provide her own copies of records to the DF-AEs, which was one reason why she discharged him in a certified letter dated 3-8-13.

On pg. 31, ¶3 of the Conclusion, DF-AE states, *"She has now paid the price for her willful violation of the discovery rules and the orders of the Circuit Court. This Court should deny the Application for Leave to Appeal and provide an end to this litigation."* It is DF-AEs and the circuit court that willfully violated discovery rules when they refused to accept the already executed copies of MC 315 that were mailed to all of PL-AT's healthcare providers, and the DF-AE who violated the circuit court's 6-21-13 order to provide PL-AT with Mr. Wright's authorization forms by the end of the business day on 6-21-13. This court has the opportunity to finally correct the injustice that has been done to PL-AT, and should grant PL-AT's 3-10-15 Application.

Exhibits attached:
A – J: 84 pages
K - X: 101 pages
Y: 38 pages

Total pages of exhibits filed: 223 pages

6-10-15
Date

signature redacted

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