

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. **151463**  
**NOT 151198**  
Court of Appeals No: 317972  
Circuit Court No: 13-000652-NI

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**PLAINTIFF-APPELLANT'S REPLY TO DEFENDANT APPELLEE EDI'S JUNE 29,  
2015 ANSWER TO PLAINTIFF APPELLANT'S JUNE 23, 2015 MOTION TO WAIVE  
10-PAGE LIMIT ON PLAINTIFF-APPELLANT'S REPLY TO DEFENDANT-  
APPELLANT EFFICIENT DESIGN'S ANSWER TO PLAINTIFF-APPELLANT'S  
4-21-15 APPLICATION FOR LEAVE TO APPEAL TO THE MSC**

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Dated: June 30, 2015

NOW COMES *pro se* Plaintiff-Appellant (“PL-AT”), Tamara Filas, for her Reply to Defendant Appellee (“DF-AE”) Efficient Design Inc.’s 6-29-15 Answer to PL-AT’s 6-23-15 Motion to waive the 10-page limit on her 6-23-15 Reply to DF-AE’s 5-12-15 Answer to PL-AT’s 4-21-15 Application for Leave to Appeal the COA’s 3-10-15 Opinion to the Michigan Supreme Court:

### **Introduction**

Throughout Mr. O'Malley's 6-29-15 answer to PL-AT's motion to waive the 10-page limit on her 6-23-15 reply brief in MSC Case no. 151463, Mr. O'Malley refers to PL-AT's statements from her motion as ‘allegations.’ PL-AT denies she made ‘allegations’ in her Motion. She only made statements based on fact to support why her Motion to waive the page limit should be granted. The following numbered items correspond with those from DF-AE's 6-29-15 Answer:

1. Agrees with DF-AE.
2. PL-AT's 6-23-15 Motion, item 2 simply stated: “*On 5-12-15, DF-AE Efficient Design Inc. (“EDI”) filed an Answer to PL-AT's 4-21-15 MSC Application for Leave to Appeal the 3-10-15 COA Opinion, to which PL-AT has filed a Reply.*” Mr. O’Malley’s response to Item 2 neglects to mention the date he filed the answer to PL-AT’s 4-21-15 Application, which was 5-12-15. This is consistent with his 5-12-15 Answer which, similarly to DF-AE Culpert’s Answer to PL-AT's 4-21-15 Application, gives the appearance that PL-AT's **4-21-15** Application is the same or similar as PL-AT's **3-10-15** MSC Application, when they could not be more different. The **4-21-15** Application seeks only for the MSC to dispose of the 3-10-15 Opinion which was issued after the case was already dismissed for different reasons, while the **3-10-15** Application

seeks review of the COA's 11-25-14 Order upholding dismissal of PL-AT's case due to the doctrine of collateral estoppel. It should also be noted that in an effort to mislead the MSC to believe that both of PL-AT's MSC applications are similar, Mr. O'Malley has included both MSC docket numbers at the top of his 6-29-15 Answer to PL-AT's Motion to Waive Page Limit, when PL-AT's 6-23-15 Motion is only in regard to MSC Docket No. **151463**, and her 6-23-15 reply to EDI's 5-12-15 Answer. PL-AT's 6-10-15 Motion to accept her 57-page re-submitted Reply Brief in regard to MSC Docket no **151198**, in regard to EDI's 3-30-15 answer and PL-AT's 6-10-15 reply, was denied on 6-23-15 by the MSC. Therefore, the only docket number that should have appeared on the front page of Mr. O'Malley's filing is **151463**.

PL-AT denies DF-AE's claims that PL-AT's 4-21-15 Application for leave to appeal, (MSC Docket No. 151463), was not limited to the March 10, 2015 Opinion of the Court of Appeals. PL-AT's 4-21-15 MSC application is only in regard to the disposal of the 3-10-15 COA opinion, which is clearly invalid and illegitimate, due to the fact that the COA already upheld case dismissal in its previous 11-25-14 order, ruling that the doctrine of collateral estoppel prevented PL-AT from litigating issues I - III, and VI from her 12-20-13 COA Brief on Appeal. By the COA's inclusion of item III in its 11-25-14 Order, it upheld dismissal of PL-AT's entire case, an argument PL-AT presented at the 3-3-15 oral arguments hearing before the COA panel, that was not rebutted by DF-AEs at the hearing (and still has not been in any of DF-AE's MSC pleadings), nor by the 3-3-15 COA panel. In her effort to dispose of the invalid 3-10-15 COA Opinion, in her 4-21-15 Application to the MSC, PL-AT was required to explain the highly irregular situation of the existence of two different decisions of the COA, made on different dates, each upholding dismissal of PL-AT's case for different reasons. PL-AT was required to discuss the fact that there had already been an order upholding dismissal of her case on 11-25-14,

and that the case cannot be dismissed twice, and therefore the only true, valid final order under MCR 7.202(6)(a)(i), is the 11-25-14 Order, since it was the first order upholding dismissal of PL-AT's entire case, and therefore the 3-10-15 Opinion must be disposed of in the appropriate manner by the MSC. PL-AT was also required to discuss the 10-14-14 COA Opinion in case 316822, PL-AT's case against her first-party PIP insurer, MEEMIC insurance company, because it was this 10-14-14 Opinion that was used to justify the application of the doctrine of collateral estoppel, which was the basis of the 11-25-14 Order upholding dismissal of the case. Therefore, it should be understood that PL-AT was required to bring up these other cases in her 4-21-15 MSC Application in order to show that the COA already upheld case dismissal on 11-25-14, and therefore PL-AT was seeking leave to appeal the 3-10-15 Opinion *only* so that it could be disposed of in the proper manner by the MSC. Having to have had to file two appeals and to have two appeals pending in relation to the same case, for two different Orders upholding the dismissal of this one case for different reasons, although unfounded and contrary to common sense and court rule, was necessary to effectuate a disannulment and invalidation of the 3-10-15 Opinion. **Let it be clear the 4-21-15 MSC Application is only in regard to the disposal of the 3-10-15 COA Opinion.** Mr. O'Malley's denial that PL-AT's Application to appeal for leave to the MSC in docket number 151463 is not limited to the March 10, 2015 opinion of the COA is without substance or merit.

3. PL-AT denies DF-AE's statement that "*Defendant has presented no 'sophisticated trickery', there is no need for 'rebuttals' or 'detailed analysis.'*" Nearly every sentence of DF-AE's Answer required a rebuttal due to the misrepresentations and untruths contained within. PL-AT has already lost the right to provide the truth in regard to MSC Case No. 151198, and EDI's 3-30-15 Answer that was so packed full of untruths PL-AT could not meet the MSC's

requirement to reduce the 93-page filing to any less than 57 pages, without compromising the integrity of the Reply. Now none of the truth will be considered in that case, and only EDI's falsified presentation will remain in the pleadings, since the MSC struck PL-AT's resubmitted 6-10-15 Reply in case no. 151198. PL-AT prays the MSC will allow her 38-page Reply to EDI's Answer in Case no. 151463 (the instant case and related motion) to remain in the court file as e-filed, so at least some of the truth will be considered. It is important to note that in regard to Item 3 of PL-AT's Motion to Waive the Page Limit of her 6-23-15 Reply, EDI did not deny PL-AT's statement that "*dates of important filings were altered or omitted,*" which can be treated as an admission. In her 6-23-15 Reply to EDI's 5-12-15 Answer, on pg. 5-6, PL-AT explained that 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 5 clear instances of alterations, omissions, false quotes and claims, miscitings and/or blatant lies in DF-AE's 5-12-15 Answer, which were as follows:

**A. DF-AE falsely refers to the court treating PL-AT's Objections to a 7-day Order of Dismissal as a "Motion to Reinstate the Case" after PL-AT had been tricked into believing these objections could reverse dismissal of her case.**

Mr. O'Malley states on pg. 22, ¶1 of its 5-12-15 Answer, "*Similarly, Plaintiff-Appellant gives no valid reason why she did not sign the proffered authorizations between the receipt on June 24, 2013, and the hearing on her 'objections' to the dismissal order, which the trial court treated as a motion to reinstate the case on August 9, 2013.*" It would be without basis for PL-AT to sign the authorization forms during this time period, while she was awaiting the 8-9-13 hearing, which she was misled to believe could reverse the dismissal of her case. PL-AT had already

completed MC 315 for all of her providers between 6-19-13 and 6-26-13 and both DF-AEs were receiving her medical records from their execution. PL-AT didn't sign Mr. Wright's releases prior to the 8-9-13 hearing because PL-AT never fathomed that on 8-9-13, Judge Borman would order her to re-do the process of disclosing medical records using Mr. Wright's personal forms after he already received and was still receiving records from the MC 315 forms. Let it be clear that there is no indication that the court treated PL-AT's Objections to the Dismissal as a "Motion to Reinstate the Case," as DF-AE claims. PL-AT filed 7-2-13 Objections to Mr. Wright's "proposed" 7-day Order of Dismissal. With more knowledge of the court procedures, PL-AT now understands she should have filed a Motion for Reconsideration of the 6-24-13 dismissal if she wanted the dismissal overturned/reversed, but she was led to believe by the Court and the attorneys that objecting to a 7-day order could reverse the dismissal, due to the fact that Mr. Wright left out the required notice under MCR 2.602(B)(3) that explains that one is only allowed to make objections regarding accuracy and completeness, and PL-AT could not have had any objections to the fact that her case was dismissed since that *is* what happened on 6-24-13. It is disturbing that since PL-AT brought up this trickery in her 3-10-15 MSC Appeal for the first time in any pleadings, DF-AE is now lying to give the appearance that PL-AT did file a motion to reinstate her case, when all she actually did was file objections to a 7-day order, which did not have the ability to reverse the dismissal (Exhibit K, Register of Actions dated 6-24-13, Register of Actions dated 3-10-15; Exhibit S, EDI's 6-25-13 Notice of Submission of Seven-Day Order 7-day order).

**B. Alteration of the 6-21-13 transcript by putting a period where there was none,**

**changing the meaning of the Court's sentence.**

On pg. 5 of O'Malley's 5-12-15 Answer, in DF-AE's explanation of why PL-AT should have known about the 6-24-13 special conference, it is very unsettling that DF-AE provided only a partial quote by the Judge to change it's meaning to the opposite of what she intended. On pg. 5, ¶1, last line, DF-AE shortened Judge Borman's quote from pg. 17 of the 6-21-13 transcript from: "*I'll see you Monday, hopefully not.*" to "*I'll see you Monday.*", deliberately deceiving this court by placing a period where the sentence did not actually end, thereby altering the meaning so it would seem that PL-AT was to appear on Monday, 6-24-13, instead of the understanding at the 6-21-13 hearing that the PL-AT had to deliver the signed authorizations to Mr. Wright before 2:00 p.m. on 6-24-13, thus, there would be no reason for anyone to appear before Judge Borman at 2:00 on 6-24-13 if the authorizations were already delivered. The authorizations *were* timely delivered (Exhibit A, 6-24-13 signed cover letter from Wright's office).

**C. 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.**

Mr. O'Malley claims on pg. 17, ¶2 of the 5-12-15 Answer, "*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, 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.

**D. 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.**

Mr. O'Malley states on pg. 18 ¶2 of the 5-12-15 Answer, *"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.

**E. Use of quotations around statements never made by PL-AT.**

DF-AE states on pg. 24, ¶2 of the 5-12-15 Answer, “*At the hearing on June 21, 2014, the Circuit Court required Plaintiff-Appellant to sign the authorizations provided by Efficient.*” Let it be clear, the circuit court “ordered” PL-AT to sign the authorizations that “would be provided” by DF-AE. Mr. Wright did not have any authorizations with him at the court as pg. 17 of the 6-21-13 transcript indicates (Exhibit E). DF-AE continues on pg. 24, ¶2, “*The Circuit Court specifically said, ‘no games.’ Almost immediately, Plaintiff-Appellant began ‘playing games’ with ‘I didn’t check my e-mail’ or ‘I don’t have to sign those releases, I’ll sign my own.’*” These are outright lies. Note that there is no reference to a page number or line number in the transcript by DF-AE, as most of DF-AE's quoted statements contain.

That is because PL-AT never said such things at the 6-21-13 hearing or any time for that matter. It is disturbing DF-AE would claim PL-AT made statements about checking her e-mail at the 6-21-13 hearing when nothing was even ordered to be e-mailed by Mr. Wright to PL-AT until that very hearing, so there was no e-mail to check at that point in time. It is equally disturbing for DF-AE to claim that at the 6-21-13 hearing, PL-AT said she would sign “her own” authorizations, which she never said on that date or any other time. At the 6-21-13 hearing, she had agreed to sign Mr. Wright’s authorizations, and he had agreed to e-mail them to her by the end of the business day. DF-AE has re-written history and falsified quotations to avoid the most important facts---that EDI received records from the MC 315 forms that were executed and it was ludicrous for PL-AT's case to be dismissed for refusing to repeat the process with Mr. Wright’s personal forms, that Mr. Wright, by failing to provide notice to her explaining what she could and could not object to in a 7-day order, deceived PL-AT to believe she could reverse the *sua sponte* dismissal of her case on June 24, 2013, by filing an objection to the 7-day order of dismissal and appearing for the motion hearing on 8-9-13, whereby she was actually ordered to re-do the authorizations again using Mr. Wright’s forms after the case had already been dismissed and the DF-AE had already received records as a result of the MC-315 authorizations she mailed out.

The five items listed above from Mr. O’Malley’s 5-12-15 Answer to PL-AT's 4-21-15 MSC Application in regard to the 3-10-15 COA Opinion, also appeared in O’Malley’s previous 3-30-15 Answer to PL-AT's 3-10-15 MSC Application in regard to the 11-25-14 COA Order. Three other deliberate false claims and miscitings of court rules appeared in Mr. O’Malley’s 3-30-15

Answer, which were brought to the attention of the MSC, but now they will no longer be considered since the MSC struck the 6-10-15 Reply Brief containing them, due to the length of the Reply Brief required for PL-AT to barely even address the issues presented in Mr. O'Malley's 3-30-15 Answer. However, the MSC should still consider these three items when deciding how much "weight" to give to Mr. O'Malley's denials, because PL-AT considers them to be quite egregious:

**F. 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.**

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.

Mr. O'Malley'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 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.

**G. 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.**

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 7.213(E) instead of MCR 7.214(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, 7.214(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.

**H. 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.**

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 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.



4. PL-AT disagrees with DF-AE there is no need to recite history and/or fact when Mr. O'Malley keeps misleading this Court by including red herrings into his filings, trying to divert the Court's attention from the limited scope of this application for leave to Appeal to the MSC which is only the disposal of the March 10, 2015 Opinion of the Michigan Court of Appeals. See item #3 for falsehoods contained in his 5-12-15 Answer, many of which were irrelevant to the March 10, 2015 Opinion, but nonetheless needed to be addressed by PL-AT in the her reply to adequately argue her case and defend herself from the malicious, demeaning statements made by Mr. O'Malley, as well as other writings of Mr. O'Malley that were not true. See Item # 3 for examples. Further, the inaccurate history presented by Mr. O'Malley has also been presented to the COA, and many of his statements appear in the 3-10-15 COA Opinion, as the COA seems to have not read PL-AT's pleadings or examined the supporting evidence that would have clearly proven that it was Mr. O'Malley who was being untruthful. Therefore, PL-AT had to provide some of these rebuttals again in pleadings to the MSC, since they were presented yet again by Mr. O'Malley in his MSC Answers. It is not about PL-AT's "view" of the history or facts, as DF-AE claims. It is about the truth being told and heard.

5. PL-AT disagrees with the DF-AE that the statements in this paragraph are untrue. Harm has already come to PL-AT, since the 6-10-15 re-submitted 57-page Reply brief (already shortened from the 93 pages required to adequately address all the false statements) in excess of the of the 10-page limit in regard to the Court of Appeals 11-25-14 Order, MSC Case No. 151198, was stricken on 6-23-15 by the MSC. Now all of the references made to the 6-10-15 re-submitted Brief, contained in PL-AT's current filing dated 6-23-15, are no longer valid references since the brief to which they refer no longer exists on the record Therefore, DF-AE's claim that "*Plaintiff-Appellant has already filed a reply brief in excess of the page limit*"

*regarding the Court of Appeals prior order,”* is unsubstantiated, since this Reply was ultimately stricken. PL-AT’s references to the 6-10-15 filing, made in the current filing dated 6-23-15, are no longer valid references since the brief to which they refer no longer exists on the record. Therefore, DF-AE’s claim that “*Plaintiff-Appellant has already filed a reply brief in excess of the page limit regarding the Court of Appeals prior order,”* is unsubstantiated, since this Reply was ultimately stricken, therefore, lending further support to PL-AT’s argument that the 6-23-15 Reply should definitely be accepted as filed, as it has already been compromised by missing arguments that were referenced in the stricken 6-10-15 filing.

6. DF-AE disagrees she did not confine her arguments as required under MCR 7.212(G). The example Mr. O’Malley gives regarding PL-AT’s second attorney, is a disingenuous example because Mr. O’Malley, himself, is the one who put an actual heading in his “Counter-Statement of Facts” section, entitled, “*Discharge of Plaintiff-Appellant’s Attorney.*” PL-AT actually argued *against* the inclusion of this section because the issues involving her prior attorney were irrelevant to the instant Application, and therefore included the majority of her rebuttals to this issue in the attached Exhibit Y, rather than in the 6-23-15 Brief itself. Also, the arguments on pg. 34 of the 6-23-15 Brief, cited by Mr. O’Malley were part of a rebuttal to his claim that she had obstructed the discovery process in the circuit court, so they met the criteria under MCR 7.212(G). Further, the argument regarding the stipulated protective order is relevant because it is that very Protective Order upon which the COA used to justify upholding the dismissal of PL-AT’s MEEMIC COA Case No. 316822. It is the MEEMIC COA Order of 10-14-14 that was used by the COA in the instant case, to grant Culpert’s Motion to Affirm based on the doctrine of collateral estoppel, claiming the PO required PL-AT to sign medical releases from a record copy

service, even though there wasn't even a stipulated PO in Case No. 13-000652-NI, or any PO for that matter.

7. Although Mr. O'Malley can deny that he made any "alterations" or falsifications or erroneous quotations, the pleadings, transcripts, and published court rules and internal operating procedures, the records and PL-AT's analysis of those records speak for themselves. The analysis presented in Item #3 above is proof that he has indeed done so.

8. PL-AT denies that her statements made in Item 8 are untrue. Whether or not she was able to submit some of her rebuttals to the 6-10-15 Reply in MSC Case no. 151198, in a separate Exhibit Y, which was not an "appendix" as DF-AE claims nor does it meet the legal definition of one, is irrelevant to PL-AT's claim, which was that she "lost her right to rebut all of the statements made by DF-AE **within the brief itself...**" PL-AT's argument is that similarly to the 6-10-15 resubmitted Reply, she also shortened the 6-23-15 Reply so that many statements were rebutted in a separate Exhibit Y and were not part of the Brief. PL-AT therefore already compromised the 6-23-15 Reply and should not have to further compromise it by shortening it or by having it refused by the MSC due to its 38 pages in length.

9. PL-AT denies her statements in Item 9 are untrue, especially the fact that the DF-AEs and the COA have avoided mention of the form name involved in her case, SCAO-mandated MC 315, and the associated court rule, MCR 2.314(C)(1)(d). PL-AT only has had to repeat her arguments in regard to already having provided her medical records from all of her health care providers to both DF-AEs using said form, because the DF-AEs continue to claim she never provided medical records at all, which can be clearly verified as an untruth by examining Exhibits A, B, I, and J. It is worth mentioning that for the first time **ever**, Mr. O'Malley actually mentions MC 315 in a footnote appearing on pg. 3 of his 6-29-15 Answer to PL-AT's Motion to

Waive the Page Limit on her 6-23-15 Reply, but so that “MC 315” will not be able to be scanned or searched for like normal words and phrases in a PDF file, he has altered the footnote so that the “MC” appears on pg. 3, but the “315” appears on pg. 4, which is not the standard way to create a footnote, nor would Microsoft Word have even allowed this to occur when making one. This was clearly a deliberate act to continue to conceal MC 315 from the pleadings by making it unsearchable in the PDF, while at the same time, by its inclusion in the document, giving the impression that he has no qualms about mentioning it by name in a filing.

10. PL-AT denies DF-AE's claim that no relief is necessary. In Item 10, PL-AT explained how she already compromised her brief by having to separate out the irrelevant circuit court events into exhibit Y, which was 37 pages. Therefore, 37 pages of rebuttals to DF-AE's false claims and history are not part of the Reply brief, and will not be as readily considered by the MSC. PL-AT's relief should be not have to shorten her reply brief any further, and the MSC to accept her 38-page 6-23-15 reply as filed.

11. PL-AT denies DF-AE's claim that PL-AT's writings and her 6-23-15 Reply and Exhibit Y were not direct responses to statements made by DF-AE. Every single one of the 53 items presented in exhibit Y began with a quote or short summary derived from DF-AE's 5-12-15 Answer, as can easily be seen by a quick scan of the document, as the quotations are in italics. PL-AT's 6-23-15 Reply brief is written in the same manner, with a quotation or summary from the 5-12-15 answer presented first, and a rebuttal following. Again, the quotations are in italics and easily viewed by a quick scan of the Reply Brief, verifying that PL-AT indeed conformed to MCR 7.212(G).

12. PL-AT disagrees the statements she made in this paragraph are untrue. It is disingenuous of Mr. O'Malley to state PL-AT needs no relief from court rules when it is common practice for

attorneys to pay motion fees to file a motion to have a page waiver reviewed by a MSC panel, the same way PL-AT is filing the same type of motion. It is common practice available to attorneys, and therefore would be available to pro per litigants as well. In fact, it was the Court itself that informed PL-AT of the procedure to submit a longer reply brief. It is offensive for Mr. O'Malley to refer to PL-AT's request as an "accommodation," when this term is often associated with special arrangements made for disabled persons in the workplace. As explained, asking for relief from page limits is not an accommodation exclusively for disabled persons, but relief available to any party subject to litigation in the appellate court which mostly involves licensed attorneys and a limited number of pro per litigants. It is the Court that allows for one to file a motion to waive pages, and thereby Mr. O'Malley's claim PL-AT is requesting relief from court rules is unfounded when the Court allows the any party to request relief from page limits. The court has always recognized the disparity between the educational and experiential difference between a seasoned, licensed attorney and the general public, *pro per* litigant, and understands the position the *pro per* is in when faced with trying to effectively navigate through the legal system which "is" an arduous task for a *pro per* litigant who has no professional advisor to guide her on how to go about limiting pages without compromising the substance and facts of the case, especially without the resources of paralegals to research cases and court rules and write answers for her to review and approve, and secretaries to take care of the details of completing and transmitting the filings, which many attorneys have at their disposal. This filing was especially difficult to complete due the plethora of other lawsuits and legal issues arising from her auto accident that also required timely attention as outlined in Item # 13 of her Motion to Waive the page limit right before the instant filing was due. PL-AT needed the relief provided by the page waiver to meet the filing deadline. One has only to consider the fact that PL-AT had to get

extensions on more than one filing, and to consider how many filings PL-AT had due in the weeks before this filing, and consider what time her page waiver motion was filed in relationship to the deadline, to realize PL-AT truly needed the page waiver to get her filing in on time, given the problems she was having with her sight mentioned in Item 15 of her Motion to Waive the page limit. PL-AT clearly needs the page waiver. The statements made by PL-AT in this paragraph are all true, including the statement that her injuries have resulted in changes to her abilities to live her life and perform tasks the same way as she did before the accident, which were superior to her present physical capacity.

13. PL-AT denies that the fact that her resources are limited and she has other lawsuits and legal issues to attend to, which do contribute to her inability to work on the 6-23-15 filing any further, but are certainly not the most important reasons for granting her Motion to Waive the Page Limit, which are presented elsewhere in the 6-23-15 Motion, and further supported in this Reply to EDI's 6-29-15 Answer.

14. It is not possible for DF-AE to claim that PL-AT's statements that writing these replies has been stressful and difficult, are untrue. It is clear from the eight items presented in Item 3 of this Reply, that the DF-AE has indeed made erroneous or false statements in its filings. It should be clear that the circuit court events that DF-AE heavily focuses on in the Counter-Statement of facts *are* clearly irrelevant, since the 4-21-15 MSC Application is only in regard to the disposal of a clearly invalid 3-10-15 COA Opinion, that upheld dismissal of PL-AT's case for different reasons than the 11-25-14 Order that already upheld dismissal of PL-AT's case using the doctrine of collateral estoppel as justification. To have two MSC Applications pending in relation to the same case, for two different decisions, both upholding dismissal for different reasons, is illegitimate, unreasonable and unjust. Clearly, the 3-10-15 Opinion cannot be considered

legitimate, and must be disposed of by the MSC in the proper manner, so that PL-AT can proceed with her 3-10-15 MSC Application to appeal the only valid final order, the 11-25-14 Order, being appealed in MSC Case no. 151198.

DF-AE distorts PL-AT's statement in item #14 that she had "already answered and rebutted" false statements made by DF-AE. PL-AT's actual statement read, "*...DF-AE's answers contain numerous pages in which DF-AEs continuously, relentlessly and repeatedly fill their answers with irrelevant, erroneous and false information from previous filings, already answered and rebutted by PL-AT, which PL-AT now has a right to rebut again was in reference to previous filings, not MSC filings...*" Clearly, PL-AT was referring to rebuttals made to past filings by DF-AEs in the circuit court and Court of Appeals, not those made in the MSC, for which she now had the right to rebut yet again.

15. DF-AE has no basis to make claims it is not true that "*reducing the pages in this reply and another reply in the case, has been especially difficult for Plaintiff and has created vision issues due to severe eye strain which had made it even more difficult for PL-AT to reduce the pages down any further in this [6-23-15] reply.*" If a sighted person becomes unable to see clearly due to eye strain, it is almost impossible to read a computer screen and prepare a legal filing when one's sight is impaired to that degree, which is exactly what happened to PL-AT while preparing the 6-23-15 Reply and a previous filing, and in this current filing. It should be clear by reading PL-AT's pleadings that the issues presented in DF-AE's Answers *are* designed to confuse the court. In DF-AE's 5-12-15 Answer, DF-AE presented no arguments whatsoever in regard to the only actual issue of PL-AT's 4-21-15 MSC Application, which is to have the MSC dispose of the clearly invalid and illegitimate Opinion, issued after case dismissal was already upheld for different reasons by the 11-25-15 Order, so that PL-AT can proceed with the true final

order, the 11-25-14 Order, upholding dismissal of her case for the reason of collateral estoppel, the basis of her 3-10-15 MSC Application, assigned docket no. 151198.

16. PL-AT disagrees the statements she made in this paragraph are untrue. Clearly, the elimination of important information and arguments from PL-AT's reply brief will compromise her ability to have a fair chance of having her leave to appeal to the Michigan Supreme Court granted.

17. As this item is an addition, and not a response to an item from PL-AT's motion to waive the 10 page limit on her 6-23-15 Reply brief, and contains only arguments in regard to the denial of PL-AT's 4-21-15 and/or her 3-10-15 MSC application, which are out of place here, it should be stricken from DF-AE's answer.

DF-AE's claims that the MSC should deny PL-AT's Application(s) due to the fact that it denied PL-AT's Application for Leave to Appeal the MEEMIC COA Opinion of 10-14-14, is unfounded. PL-AT's 3-10-15 MSC Application (MSC Case No. 151198) seeks review of the COA's 11-25-14 Order, which used the 10-14-14 MEEMIC Opinion to collaterally estop PL-AT from litigating her issues presented in her 12-20-13 COA Brief on Appeal. One of PL-AT's primary arguments in her appeal of the 11-25-14 Order is that the issues in the instant case are not the same, or even similar to the MEEMIC case, and thus the doctrine of collateral estoppel was erroneously applied. For Mr. O'Malley to use the same argument that the issues were the same or similar, which resulted in the COA upholding the dismissal of PL-AT's case, which is contrary to PL-AT's argument presented in her 3-10-15 MSC Application that the cases were dissimilar, and to again prevent PL-AT from obtaining justice at the level of the MSC, defies reason and common sense, and promotes further injustice.



It should also be noted that on June 18, 2015, PL-AT filed a Motion for Reconsideration of the 5-28-15 Order denying her MSC Application, so it is not a final decision that the MEEMIC MSC Application has been denied.

Exhibits attached: A, B, E, I, J (63 pages)

K, O, P, S (52 pages)

\*Exhibits Table of Contents attached on pg. 26

Thank you for your consideration of these arguments in regard to granting the 6-23-15 Motion to waive the page limit on PL-AT's 6-23-15 Reply to EDI in MSC Case no. 151463.

Respectfully submitted on 6-30-15,

signature redacted

---

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

e-mail redacted

**Exhibits Table of Contents**

Signed cover letter verifying MC 315 authorizations to release and mail out medical records were received by Mr. Wright’s law firm at 11:24 AM on 6-24-13.....A

Sample of completed MC 315 Form and cover letter to Henry Ford West Bloomfield Hospital for Mr. Wright, one of EDI’s attorneys in Circuit Court Case).....B

6-21-13 Transcript.....E

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

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

- Returned and completed pages 1-3 and 5 of 10-27-14 letter from Plaintiff to St. Joseph Mercy Orthopedic Center, verifying records were sent to Mr. Hassouna and Mr. Wright on 7-15-13 and 7-24-13, respectively.....J1
- Accounting of Disclosures from St. Mary Mercy Livonia, verifying records were sent to Mr. Hassouna and Mr. Wright on 7-3-13.....J2
- Returned and completed pages 1-3 and 5 of 10-27-14 letter from Plaintiff to Dr. James Giordano, verifying records were sent to Mr. Hassouna and Mr. Wright on 6-27-14.....J3
- Returned and completed pages 1-3 and 5 of 10-27-14 letter from Plaintiff to Manzo Eye Care, verifying records were sent to Mr. Hassouna and Mr. Wright on 6-25-14.....J4
- Returned and completed pages 1-3 and 5 of 10-27-14 letter from Plaintiff to Associates in Physical Medicine and Rehabilitation, verifying records were sent to Mr. Hassouna and Mr. Wright on 6-28-14.....J5

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

Culpert’s 12-30-13 Motion to Affirm.....O

Culpert’s 10-17-14 Motion to Affirm.....P

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

# Exhibit A

6477 Edgewood  
Canton, MI 48187  
June 24, 2013

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

Dear Mr. Wright,

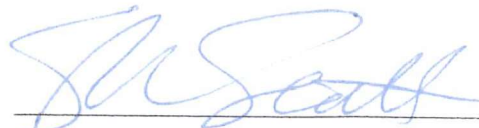
Attached please find copies of fully executed authorizations to health care providers. Copies of certificates of mailing are attached to verify mailing on June 21, 2013.

Yours truly,

signature redacted

Tamara Filas

Received by:



Date/time:

6-24-13 11:24 AM

# Exhibit B

6477 Edgewood  
Canton, MI 48187  
June 24, 2013

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

**RE: Correction of mailing address on medical authorizations dated June 21, 2013**

Dear Medical Records Custodian,

On June 21, 2013, I sent a signed authorization and request to release certified copies of my medical records to Attorney James Wright. I **mistakenly** listed **31200 Middlebelt Rd.**, Suite 150, Farmington Hills, MI 48334 as the address to send the records. The **correct address** to send the records to is **31700 Middlebelt Rd.**, Suite 150, Farmington Hills MI 48334.

I have enclosed a cover letter and signed authorization forms reflecting the correct address to mail the certified copies of the records to Mr. Wright.

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

I apologize for any inconvenience this may have caused. Thank you for your patience.

Yours truly,

signature redacted

Tamara Filas

6477 Edgewood  
Canton, MI 48187  
June 21, 2013  
(revised June 24, 2013)

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

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

Dear Medical Records Custodian,

**This cover letter replaces the original cover letter sent June 21, 2013, and corrects the mailing address of the records recipient only.**

Attached is a signed Authorization for Release of Medical Information and Authentication Certificate, permitting the disclosure of records pertaining to Tamara Filas, DOB [REDACTED], as described in detail below, to:

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

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

**Description of records requested:**

Redacted: Below was DOB

Any and all PHI from [REDACTED] until present.

Redacted: Below was DOB

Redacted: Below was DOB

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

Redacted: Additional letters of caregivers' names and type of report

4-7-10, K [REDACTED] S [REDACTED]

5-5-10, J [REDACTED] L [REDACTED] and C [REDACTED] E [REDACTED]

8-31-10, C [REDACTED] L [REDACTED]

9-16-10, V [REDACTED] S [REDACTED]

11-2-10, C [REDACTED] E [REDACTED]  
4-14-11, N [REDACTED] C [REDACTED]  
9-12-11, C [REDACTED] E [REDACTED] and J [REDACTED] M [REDACTED]  
10-3-11, [REDACTED] testing reports  
10-5-11, C [REDACTED] E [REDACTED]  
12-13-11, C [REDACTED] L [REDACTED]  
2-17-12, C [REDACTED] L [REDACTED]  
3-8-12, J [REDACTED] N [REDACTED]  
4-4-12, J [REDACTED] N [REDACTED]  
4-9-12, J [REDACTED] N [REDACTED]  
4-16-12, J [REDACTED] N [REDACTED]  
4-19-12, J [REDACTED] N [REDACTED]  
7-13-12, C [REDACTED] L [REDACTED]  
10-5-12, C [REDACTED] L [REDACTED]

Thank you in advance for your assistance.

Yours truly,

signature redacted

Tamara Filas



Approved, SCAO

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

<b>STATE OF MICHIGAN</b> JUDICIAL DISTRICT 3rd JUDICIAL CIRCUIT COUNTY PROBATE	<b>AUTHORIZATION FOR RELEASE          OF MEDICAL INFORMATION</b>	<b>CASE NO.</b> <del>13-00652-NI</del> 13-000652-NI
---	--	--

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

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

Probate In the matter of \_\_\_\_\_

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

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

to release (see attached letter dated 6-24-13)  
 Description of medical information to be released (include dates where appropriate)

to Mr. James Wright; Zausmer, Kaufman, August & Caldwell, P.C.; 31700 Middlebelt Rd., Suite 150; Farmington Hills, MI 48334  
 Name and address of party to whom the information is to be given

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

06/24/2013

Date

signature redacted

Signature  
Tamara Filas

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

6477 Edgewood

Address  
Canton, MI 48187

City, state, zip

(734) 751-0103

Telephone no.

**CERTIFICATE**

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

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (type or print)

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, state, zip

\_\_\_\_\_  
Telephone no.



Certificate Of Mailing

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

From:



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



1000

To: *Henry Ford West Bloomfield Hospital*  
*Attn: Medical Records Custodian*  
*6777 West Maple Rd.*  
*West Bloomfield MI 4832*

00011429-04

\$120

U.S. POSTAGE  
PAID  
CANTON, MI  
48187  
JUN 24 13  
AMOUNT

# Exhibit E

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

4 TAMARA FILAS,

5 Plaintiff,

Case No. 13-000652 NI

6 vs.

7 KEVIN CULPERT and EFFICIENT DESIGN,

8 Defendants.

9 \_\_\_\_\_ /  
10 MOTION

11 BEFORE THE HONORABLE SUSAN D. BORMAN, Circuit Judge,  
12 Detroit, Michigan on Friday, June 21, 2013.

13 APPEARANCES:

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

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

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

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COPY

TABLE OF CONTENTS

PAGE

1  
2  
3  
4  
5  
6  
7  
8  
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WITNESS:

None

EXHIBITS:

None

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

- - -

THE CLERK: Filas.

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

MS. FILAS: Good morning.

THE COURT: Okay, whose motion is this?

MR. WRIGHT: It is mine, Your Honor.

THE COURT: Go ahead.

COURT REPORTER: And you are who?

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

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

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

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

MS. McGRATH: Good morning.

THE COURT: You're co-counsel?

MS. McGRATH: Yes, Your Honor.

THE COURT: Why are you up here too?

MS. McGRATH: There's two insurance

1 policies.

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

5 THE COURT: What is CGEL for?

6 MR. WRIGHT: CGL.

7 THE COURT: What is it?

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

11 THE COURT: What does CGL stand for?

12 MR. WRIGHT: Commercial General Liability.

13 THE COURT: I don't like abbreviations.

14 MR. WRIGHT: Sorry, Your Honor.

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

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

18 THE COURT: You're what?

19 MS. McGRATH: For Mr. Culpert.

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

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

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

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



1 Honor.

2 THE COURT: You're representing whom?

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

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

6 MR. HASSOUNA: That's correct.

7 Third party defendant?

8 MR. HASSOUNA: Yes, Your Honor.

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

11 MR. HASSOUNA: Yes, Your Honor.

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

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

18 THE COURT: Okay.

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

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

1 MR. WRIGHT: Probably --

2 THE COURT: A hundred?

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

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

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

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

11 MR. WRIGHT: They're 57.

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

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

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

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

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

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

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

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

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

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

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

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

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

24 THE COURT: Do it or no case.

25 MS. FILAS: Okay.

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

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

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

7 MR. WRIGHT: I have authorizations.

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

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

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

14 MR. WRIGHT: Okay.

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

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

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

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

25 THE COURT: Okay, would you please give him

1           that.

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

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

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

8                   MS. FILAS:   I have his though.

9                   THE COURT:   Excuse me, what same relief?

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

13                  THE COURT:   Okay, who are you representing?

14                  MR. WRIGHT:  I represent Efficient Design.

15                  MR. HASSOUNA:  I represent Mr. Culpert.

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

17                  MR. WRIGHT:  No, Your Honor.

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

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

21                  THE COURT:   It's vicarious liability.

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

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

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

2 MS. FILAS: Okay.

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

6 MR. HASSOUNA: Mr. Culpert.

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

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

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

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

19 THE COURT: Stay?

20 MR. WRIGHT: It was stayed, yes.

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

23 MS. McGRATH: He stayed the discovery.

24 THE COURT: What?

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

1 stayed.

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

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

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

9 MR. WRIGHT: Yes.

10 THE COURT: What?

11 MR. WRIGHT: Yes, Your Honor.

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

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

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

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

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

7 MR. WRIGHT: Okay.

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

10 THE COURT: For what?

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

14 THE COURT: What Protection Order?

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

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

20 THE CLERK: That's up next Friday.

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

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



1 both being heard today.

2 THE COURT: Does it?

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

5 THE COURT: When did you file it?

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

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

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

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

12 MS. FILAS: Sorry.

13 THE COURT: I can hear it today.

14 MS. FILAS: Okay.

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

17 MR. WRIGHT: Yes, Your Honor.

18 MR. HASSOUNA: Yes, Your Honor.

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

21 LAW CLERK: We had them for next Friday.

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

24 LAW CLERK: Okay.

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

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

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

7 THE COURT: What do you mean amendments?

8 MS. McGRATH: During the --

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

13 MS. McGRATH: Thank you, Your Honor.

14 MR. WRIGHT: Thank you, Your Honor.

15 MR. HASSOUNA: Thank you, Your Honor.

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

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

18 THE COURT: Filas versus Culpert.

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

25 MS. FILAS: I do.

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

4 MR. WRIGHT: No.

5 MR. HASSOUNA: No.

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

11 MS. FILAS: Yes.

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

14 MR. WRIGHT: About?

15 THE COURT: Scolding the Court.

16 MR. WRIGHT: Well, Your Honor --

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

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

21 THE COURT: Counsel?

22 MR. WRIGHT: Yes, Your Honor?

23 THE COURT: I didn't appreciate it.

24 MR. WRIGHT: I apologize, Your Honor.

25 THE COURT: Okay.

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

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

4 MR. WRIGHT: Thank you, Your Honor.

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

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

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

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

15 THE COURT: Just send them back to her.

16 MR. WRIGHT: Via e-mail?

17 THE COURT: Do you have e-mail?

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

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

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

24 THE COURT: This is useless.

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

1 attorney gave them out without my permission.

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

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

9 THE COURT: Okay.

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

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

13 MR. WRIGHT: About 27.

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

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

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

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

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

3 THE COURT: Okay.

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

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

13 MS. McGRATH: Yes, and we appreciate that.

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

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

19 MS. McGRATH: Thank you, Your Honor.

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

22 MR. WRIGHT: Thank you.

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

24

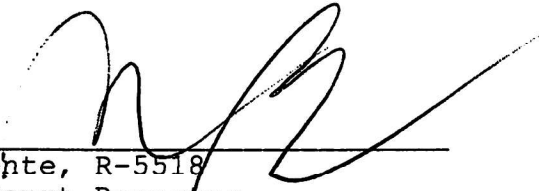
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C E R T I F I C A T E

STATE OF MICHIGAN )  
  ) .ss  
COUNTY OF WAYNE   )

I do certify that this transcript consisting of these pages are a complete, true, and correct transcript of the proceeding taken in this case in the County of Wayne, State of Michigan on Friday, June 21, 2013.



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

# Exhibit I



6477 Edgewood  
Canton, MI 48187  
June 6, 2013

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

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

Dear Medical Records Custodian,

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

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

**Description of records requested:**

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

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

Redacted: Additional letters of caregivers' names and type of report

- 4-7-10, K [REDACTED] S [REDACTED]
- 5-5-10, J [REDACTED] L [REDACTED] and C [REDACTED] E [REDACTED]
- 8-31-10, C [REDACTED] I [REDACTED]
- 9-16-10, V [REDACTED] S [REDACTED]
- 11-2-10, C [REDACTED] E [REDACTED]
- 4-14-11, N [REDACTED] C [REDACTED]
- 9-12-11, C [REDACTED] E [REDACTED] and J [REDACTED] M [REDACTED]
- 10-3-11, [REDACTED] testing reports
- 10-5-11, C [REDACTED] E [REDACTED]
- 12-13-11, C [REDACTED] L [REDACTED]
- 2-17-12, C [REDACTED] L [REDACTED]
- 3-8-12, J [REDACTED] N [REDACTED]
- 4-4-12, J [REDACTED] N [REDACTED]

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

Thank you in advance for your assistance.

Yours truly,

signature redacted

Tamara Filas

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

Debra K  
Signature

Debra Kress  
Printed name

12:25 pm  
Time

Approved, SCAO

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

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

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

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

Probate In the matter of \_\_\_\_\_

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

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

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

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

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

06/06/2013  
 Date  
 signature redacted

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

6477 Edgewood  
 Address  
 Canton, MI 48187  
 City, state, zip  
 (734) 751-0103  
 Telephone no.

**CERTIFICATE**

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

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (type or print)

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, state, zip

\_\_\_\_\_  
Telephone no.

6477 Edgewood  
Canton, MI 48187  
June 19, 2013

Redacted: Name of business, to protect privacy

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

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

Dear Health Information Management Representative,

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

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

**Description of records requested:**

Redacted: Below was DOB

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

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

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

**Other records requested:**

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

Billing information from 1-15-2010 to present

Thank you in advance for your assistance.

Yours truly,

signature redacted

Tamara Filas

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

Approved, SCAO

STATE OF MICHIGAN JUDICIAL DISTRICT 3rd JUDICIAL CIRCUIT COUNTY PROBATE	AUTHORIZATION FOR RELEASE OF MEDICAL INFORMATION	CASE NO. 13-000652-NI
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Court address: 2 Woodward Ave., Detroit, MI 48226  
 Court telephone no.: (313) 224-5261

Plaintiff Tamara Filas	v	Defendant Kevin Culpert and Efficient Design, Inc.
Probate In the matter of _____		

1. Tamara Filas \_\_\_\_\_  
 Patient's name Date of birth

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

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

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

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

6-19-13  
 Date

signature redacted  
 Signature  
 Tamara Filas

6477 Edgewood  
 Address  
 Canton, MI 48187

(734) 751-0103  
 Telephone no.

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



Certificate of Mailing

From



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

To



Attn: Records Custodian



, MI

1000



00087954-03

\$1.20

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



# Exhibit J1

6477 Edgewood  
Canton, MI 48187  
October 27, 2014

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

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

Dear Health Information Management Representative,

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

**R E D A C T E D**

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

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

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

Thank you,

[signature redacted]

Tamara Filas

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

**Item 1:**

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

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

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

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

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

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

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

before  after

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

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

Judge Manders, medical records Dept.  
10129114 Suite 301

**Item 2:**

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

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

All Records sent, xray disk + Billing stmt  
mailed on 7-15-13.

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

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

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

\_\_\_\_\_  
\_\_\_\_\_

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

**Item 4:**

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

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

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

Attach additional sheets as necessary.

Signature of medical records representative completing this form:

*Judy Manders*

Printed name:

Judy Manders

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

Date:

10-29-14

# Exhibit J2



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

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

[stmarymercy.org](http://stmarymercy.org)

October 31, 2014

Ms. Tamara Filas  
6477 Edgewood  
Canton, MI 48187

Re: Accounting of disclosures

Ms. Filas,

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

Please contact me if you need further information.

Thank you.

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

5 Record(s) Found

Advanced Search Details

21080 - ST MARY MERCY HOSPITAL LIVONIA

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



### eSmartlog Request Details

21080 : St Mary Mercy Hospital Livonia

Log ID: 83013822 Associate#: 123032

Location: 21080: St Mary Mercy Hospital Livonia

#### Requester Information

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

Type: Patient

Address: 340 E Big Beaver Suite 250

City: Troy

State-Zip: MI -48083

#### Patient Information

Received Date: 06/24/2013

First Name: Tamara

Last Name: Filas

DOB: redacted

SSN:

Med Rec No: 953109

Claim #:

Chart Location: Perm File

Date of Service:

Patient Acct #:

Complete Date: 07/03/2013

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

Page Count: 88

HIPAA reportable disclosure:

Delivery Method: Mail

Attention of :

Forms Sent: ANY AND ALL RECORDS

Comments:

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

Entered by: 123032-Jeri Mckenzie-Associate

Pushed from AudaPro: N/A

Request Reason: Patient Transfer

Billable Type: Y

Pay On Site: N

Page Count Known: N

Paper Pages: 0

Micro Pages: 0

Electronic Pages: 0

Email:

Update Record

Close This Window

View Request Letter

Correspondence History

New Correspondence Letters

### eSmartlog Request Details

21080 : St Mary Mercy Hospital Livonia

**Log ID:** 83166521    **Associate#:** 123032

**Location:** 21080: St Mary Mercy Hospital Livonia

**Requester Information**

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

**Address:** 31700 Middlebelt Rd Suite 150    **City:** Farmington Hills    **State-Zip:** MI -48334

**Patient Information**

**Received Date:** 06/24/2013    **DOB:** redacted

**First Name:** Tamara    **Last Name:** Filas    **Med Rec No:** 953109    **Claim #:**

**SSN:**    **Date of Service:**    **Patient Acct #:**

**Chart Location:** Perm File    **Complete Date:** 07/03/2013    **Enter Date:** 06/26/2013 @ 02:31:42:pm

**Page Count:** 88    **HIPAA reportable disclosure:**    **Delivery Method:** Mail

**Attention of :**

**Forms Sent:** ANY AND ALL RECORDS

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

**Entered by:** 123032-Jeri Mckenzie-Associate

**Pushed from AudaPro:** N/A

**Request Reason:** Patient Transfer    **Billable Type:** Y    **Pay On Site:** N

**Page Count Known:** N    **Paper Pages:** 0    **Micro Pages:** 0

**Electronic Pages:** 0    **Email:**

Update Record

Close This Window

# Exhibit J3

6477 Edgewood  
Canton, MI 48187  
October 27, 2014

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

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

Dear Health Information Management Representative,

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

**R E D A C T E D**

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

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

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

Thank you,

[signature redacted]

Tamara Filas

**Item 1:**

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

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

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

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

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

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

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

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

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

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**Item 2:**

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

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

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

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

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

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**Item 4:**

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

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

Person/entity                      Date released                      Brief Description of records released

R E D A C T E D


Attach additional sheets as necessary.

Signature of medical records representative completing this form:

Carole Bartlett

Printed name:

CAROLE BARTLETT

Date:

10-28-14

# Exhibit J4



6477 Edgewood  
Canton, MI 48187  
October 27, 2014

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

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

Dear Health Information Management Representative,

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

**R E D A C T E D**

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

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

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

Thank you,

[signature redacted]

Tamara Filas

**Item 1:**

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

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

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

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

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

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

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

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**Item 2:**

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

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

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

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

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

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

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

N/A

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**Item 4:**

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

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

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

Attach additional sheets as necessary.

Signature of medical records representative completing this form:

 \_\_\_\_\_

Printed name:

Natalie Kempert \_\_\_\_\_

Date:

11/3/14 \_\_\_\_\_

# Exhibit J5

343120

6477 Edgewood  
Canton, MI 48187  
October 27, 2014

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

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

Dear Health Information Management Representative,

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

**R E D A C T E D**

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

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

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

Thank you,

[redacted signature]

Tamara Filas

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

**Item 1:**

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

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

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

---

---

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

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

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

before  after

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

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

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

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

**Item 2:**

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

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

---

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

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

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

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

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

---

---

---

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



**Item 4:**

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

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

<u>Person/entity</u>	<u>Date released</u>	<u>Brief Description of records released</u>
<u>Mr. Ahmed Nassar</u>	<u>6/28/13</u>	<u>see enclosed package of information mailed</u>
<u>Ms. James Wright</u>	<u>6/28/13</u>	<u>see enclosed package of information mailed</u>
<u>Tamara Filas</u>	<u>6/28/13</u>	<u>see enclosed package of information mailed</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

Attach additional sheets as necessary.

Signature of medical records representative completing this form:

Carla Gzym, Medical Records Supervisor

Printed name:

Carla Gzym

Date:

10/30/2014

# Exhibit K

**REGISTER OF ACTIONS**

CASE No. 13-000652-NI

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

11-014149-NF (Prior Action)

**PARTY INFORMATION**Defendant **CULPERT, KEVIN THOMAS****Lead Attorneys**Ahmed M. Hassouna  
Retained  
(248) 764-1127(W)Defendant **EFFICIENT DESIGN, INC.**James C. Wright  
Retained  
(248) 851-4111(W)Plaintiff **Flas, Tamara**

Pro Se

Plaintiff **FILAS, TAMARA**Daryle G. Salisbury  
Retained  
(248) 348-6820(W)**EVENTS & ORDERS OF THE COURT****OTHER EVENTS AND HEARINGS**

01/14/2013 **Service Review Scheduled**  
(Due Date: 04/15/2013) (Clerk: Tyler,F)

01/14/2013 **Status Conference Scheduled**  
(Clerk: Tyler,F)

01/14/2013 **Case Filing Fee - Paid**  
\$150.00 Fee Paid (Clerk: Tyler,F)

01/14/2013 **Complaint, Filed**  
(Clerk: Bynum,D)

02/06/2013 **Answer to Complaint-with Jury Demand, Filed**  
Proof of Service, Filed; Affirmative Defenses, Filed (Clerk: Tyler,F)

02/06/2013 **Proof of Service, Filed**  
(Clerk: Tyler,F)

02/07/2013 **Request for Admissions, Filed**  
(Clerk: Tyler,F)

02/12/2013 **Appearance of Attorney, Filed**  
(Clerk: Tyler,F)

02/19/2013 **Service of Complaint, filed**  
(Clerk: Tyler,F)

02/19/2013 **Answer to Affirmative Defenses, Filed**  
(Clerk: Tyler,F)

02/20/2013 **Answer to Complaint-with Jury Demand, Filed**  
Proof of Service, Filed; Affirmative Defenses, Filed (Clerk: Tyler,F)

02/20/2013 **Witness List, Filed**  
Proof of Service, Filed (Clerk: Tyler,F)

02/25/2013 **Affirmative Defenses, Filed**  
(Clerk: Tyler,F)

03/11/2013 **Appearance of Attorney, Filed**  
(Clerk: Tyler,F)

03/26/2013 **Motion to Extend Time, Filed**  
Fee: \$20.00 Paid; Brief, Filed; Proof of Service, Filed; Notice of Hearing, Filed (Clerk: Tyler,F)

04/03/2013 **Notice of Hearing, Filed**  
(Clerk: Tyler,F)

04/04/2013 **Præcipe, Filed** (Judicial Officer: Borman, Susan D.)

04/19/2013 **Notice of Hearing, Filed**  
(Clerk: Tyler,F)

04/19/2013 **Motion to Compel Answers to Interrogatories, Filed**  
Fee: \$20.00 Paid; Brief, Filed; Proof of Service, Filed; Notice of Hearing, Filed (Clerk: Tyler,F)

04/22/2013 **Motion to Consolidate, Filed**  
Fee: \$20.00 Paid; Brief, Filed; Proof of Service, Filed; Notice of Hearing, Filed (Clerk: Tyler,F)

04/24/2013 **Præcipe, Filed** (Judicial Officer: Borman, Susan D.)

04/24/2013 **Notice of Hearing, Filed**  
(Clerk: Tyler,F)

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

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

6/24/13

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

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

No "special  
Conference"  
listed

## REGISTER OF ACTIONS

CASE NO. 13-000652-NI

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RELATED CASE INFORMATION

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**Related Cases**

11-014149-NF (Prior Action)

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PARTY INFORMATION

---

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

---

EVENTS & ORDERS OF THE COURT

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	<b>OTHER EVENTS AND HEARINGS</b>	
01/14/2013	Service Review Scheduled	
01/14/2013	Status Conference Scheduled	
01/14/2013	<a href="#">Case Filing Fee - Paid</a>	
01/14/2013	Complaint, Filed	
02/06/2013	<a href="#">Answer to Complaint-with Jury Demand, Filed</a>	
02/06/2013	<a href="#">Proof of Service, Filed</a>	
02/07/2013	<a href="#">Request for Admissions, Filed</a>	
02/12/2013	<a href="#">Appearance of Attorney, Filed</a>	
02/19/2013	<a href="#">Service of Complaint, filed</a>	
02/19/2013	<a href="#">Answer to Affirmative Defenses, Filed</a>	
02/20/2013	<a href="#">Answer to Complaint-with Jury Demand, Filed</a>	
02/20/2013	<a href="#">Witness List, Filed</a>	
02/25/2013	<a href="#">Affirmative Defenses, Filed</a>	
03/11/2013	<a href="#">Appearance of Attorney, Filed</a>	
03/26/2013	<a href="#">Motion to Extend Time, Filed</a>	
04/03/2013	<a href="#">Notice of Hearing, Filed</a>	
04/04/2013	<a href="#">Praecipe, Filed</a> (Judicial Officer: Borman, Susan D. )	
04/19/2013	<a href="#">Notice of Hearing, Filed</a>	
04/19/2013	<a href="#">Motion to Compel Answers to Interrogatories, Filed</a>	
04/22/2013	<a href="#">Motion to Consolidate, Filed</a>	
04/24/2013	<a href="#">Praecipe, Filed</a> (Judicial Officer: Borman, Susan D. )	
04/24/2013	<a href="#">Notice of Hearing, Filed</a>	
04/26/2013	CANCELED Motion Hearing (9:00 AM) (Judicial Officer Borman, Susan D.) Scheduling Error 04/12/2013 Reset by Court to 04/26/2013	
04/29/2013	<a href="#">Miscellaneous Motion, Filed</a>	
04/30/2013	<a href="#">Motion to Compel Action, Filed</a>	
05/01/2013	<a href="#">Praecipe, Filed</a> (Judicial Officer: Borman, Susan D. )	
05/02/2013	Status Conference (9:30 AM) (Judicial Officer Borman, Susan D.) 04/15/2013 Reset by Court to 04/19/2013 04/19/2013 Reset by Court to 04/23/2013 04/23/2013 Reset by Court to 05/02/2013 Result: Held	
05/02/2013	Motion Hearing (9:30 AM) (Judicial Officer Borman, Susan D.) 04/12/2013 Reset by Court to 04/26/2013 04/26/2013 Reset by Court to 05/03/2013  05/03/2013 Reset by Court to 05/02/2013 Result: Held	
05/02/2013	Motion Hearing (9:30 AM) (Judicial Officer Borman, Susan D.) 05/10/2013 Reset by Court to 05/02/2013 Result: Held	

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

← Special Conference Listed

# Exhibit O



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Lower Court or Tribunal WAYNE CIRCUIT COURT	<b>STATE OF MICHIGAN IN THE COURT OF APPEALS</b>  <b>Cover Sheet</b>	<b>CASE NO.</b> Year: 13 Number: 000652 Case Type: N9 CIRCUIT: 13 000652 N9 COURT OF APPEALS: 317972
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Filing Party	
Filing Party Last Name or Business/Entry/Agency Name CULPERT KEVIN THOMAS	Attorney Last Name Broaddus
Filing Party First Name M.I. _____	Attorney First Name M.I. P Number Drew W 64658
Address (Street 1, Street 2, City, State, and ZIP Code) _____ _____	Address(Street 1, Street 2, City, State, and ZIP Code) 2600 Troy Center Drive P.O. Box 5025 Troy MI 48007-5025
_____ _____	Attorney Telephone Number (248)539-2807

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

Filer Office Use Only: 100589 PIC

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

Lower Court or Tribunal  
WAYNE CIRCUIT COURT

STATE OF MICHIGAN  
IN THE COURT OF APPEALS  
**Proof of Service**

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

Case Name: TAMARA FILAS V KEVIN THOMAS CULPERT

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

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

was delivered to the persons listed below:

Date  
12/30/2013

Signature  
/s/Sandra L. Vertel

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

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

STATE OF MICHIGAN  
IN THE COURT OF APPEALS

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

TAMARA FILAS,

Court of Appeals No. 317972

Plaintiff-Appellant,

Lower Court No. 13-000652-NI

-vs-

THOMAS K. CULPERT and  
EFFICIENT DESIGN, INC.,

Defendants-Appellees.

---

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

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

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

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

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

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

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

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

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

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

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

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

SECRET WARDLE

BY: /s/Drew W. Broaddus  
DREW W. BROADDUS (P 64658)  
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dbroaddus@secrestwardle.com

Dated: December 30, 2013

STATE OF MICHIGAN  
IN THE COURT OF APPEALS

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

TAMARA FILAS,

Court of Appeals No. 317972

Plaintiff-Appellant,

Lower Court No. 13-000652-NI

-vs-

THOMAS K. CULPERT and  
EFFICIENT DESIGN, INC.,

Defendants-Appellees.

---

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

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

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**TABLE OF CONTENTS**

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

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**INDEX OF AUTHORITIES**

**CASES**

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

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

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

**STATEMENT OF JURISDICTION**

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

**COUNTER-STATEMENT OF QUESTION INVOLVED**

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

The Trial Court said: “yes.”

Plaintiff-Appellant says: “no.”

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

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

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**COUNTER-STATEMENT OF FACTS AND PROCEEDINGS**

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

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

Around the time that these requests were due, Plaintiff had a falling out with her attorney, Daryle Salisbury. (See Ex. D attached to Appellant's Brief, p 2.) Mr. Salisbury moved to withdraw, and the Circuit Court granted his motion at a May 2, 2013<sup>1</sup> hearing. (See Id.) At that hearing, the Circuit Court also stayed the case so as to allow Plaintiff to find a new attorney. (See 6/21/13 trans, p 11.) Plaintiff did not retain a new attorney, and elected to proceed in pro

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

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

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

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

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

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

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

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

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



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

**STANDARDS OF REVIEW**

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

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

ARGUMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### CONCLUSION AND RELIEF REQUESTED

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

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

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Dated: December 30, 2013

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# Exhibit P



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	<b>Proof of Service</b>	CIRCUIT: 13	Year: 13	Number: 000652
		Case Type: N9		
		COURT OF APPEALS: 317972		

Case Name: TAMARA FILAS V KEVIN THOMAS CULPERT

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STATE OF MICHIGAN  
IN THE COURT OF APPEALS

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

TAMARA FILAS,

Plaintiff-Appellant,

v

THOMAS K. CULPERT and  
EFFICIENT DESIGN, INC.,

Defendants-Appellees.

Court of Appeals No. 317972

Lower Court No. 13-000652-NI

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

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

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

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

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

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

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

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

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

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

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

SECRET WARDLE

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Dated: October 17, 2014

STATE OF MICHIGAN  
IN THE COURT OF APPEALS

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

TAMARA FILAS,

Plaintiff-Appellant,

Court of Appeals No. 317972

Lower Court No. 13-000652-NI

v

THOMAS K. CULPERT and  
EFFICIENT DESIGN, INC.,

Defendants-Appellees.

---

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

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**TABLE OF CONTENTS**

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

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**INDEX OF AUTHORITIES**

**CASES**

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

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

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

**COURT RULES**

MCR 7.211(C)(3) 3



ARGUMENT

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

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

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

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

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

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

#### **CONCLUSION AND RELIEF REQUESTED**

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

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

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

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

SECRET WARDLE

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Dated: October 17, 2014

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**INDEX OF EXHIBITS**

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

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# Exhibit S

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

TAMARA FILAS,

Plaintiff,

v.

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

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

Defendants.

13-000652-NI  
FILED IN MY OFFICE  
WAYNE COUNTY CLERK  
6/25/2013 2:15:44 PM  
CATHY M. GARRETT

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**DEFENDANT EFFICIENT DESIGN, INC.'S NOTICE OF SUBMISSION OF  
SEVEN-DAY ORDER**

To: All Attorneys of Record as listed above

PLEASE TAKE NOTICE that, pursuant to MCR 2.602(B)(3), Defendant Efficient Design, Inc. has submitted the attached proposed Order of Dismissal Without Prejudice to the Court for entry, absent written objections filed on behalf of the parties within seven (7) days of service of the herein Notice.

Zausmer, Kaufman, August & Caldwell, P.C.  
31700 Middlebelt Road, Suite 150, Farmington Hills, MI 48334-2374 • 721 N. Capitol, Suite 2, Lansing, MI 48906-5163

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Dated: June 24, 2013

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

Tamara Filas  
Plaintiff (s)

Case No. 13-000652-N1

-vs-

Kevin Thomas Culpent and  
Efficient Design, Inc. A michigan Corporation  
Defendant (s)

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

Present: HONORABLE SUSAN D. BORMAN  
CIRCUIT COURT JUDGE

IT IS HEREBY ORDERED:

That Plaintiff Tamara Filas' case is  
dismissed in its entirety without  
prejudice.

It is further ordered that this Order  
will be entered on July 1, 2013, if no  
objection is filed on or before July 1, 2013.

JPB

Honorable Susan D. Borman  
Circuit Court Judge



James W. Wright (967613)  
Defendant Attorney #

Michael O'Malley  
(959108)

Plaintiff Attorney #

Just O'Malley



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

TAMARA FILAS,

Plaintiff,

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

v.

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

Defendants.

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**PROOF OF SERVICE**

Shirley M. Biernacki, certifies that she is an en employee of the law firm of Zausmer, Kaufman, August & Caldwell, P. C. and states that on the 24<sup>th</sup> day of June, 2013, she caused to be served a copy of Defendant Efficient Design, Inc.'s Notice of Submission of Seven-Day Order, proposed Order and this Proof of Service upon Tamara Filas, In Pro Per, Ahmed M. Hassouna, Attorney for Defendant Culpert and Michael Charles O'Malley, Attorney for Defendant Efficient Design, electronically via Wayne County Circuit Court.

/s/ Shirley M. Biernacki  
Shirley M. Biernacki