

Court of Appeals, State of Michigan

ORDER

Brenda R White v EDS Care Management LLC

Docket No. 349018

LC No. 17-000015

Mark J. Cavanagh
Presiding Judge

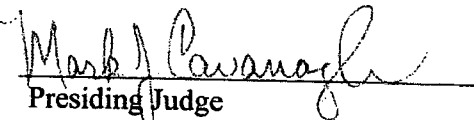
Colleen A. O'Brien

Jonathan Tukel
Judges

The Court orders that the application for leave to appeal is DENIED for lack of merit in the grounds presented.

The motion to strike is DENIED.

On its own motion pursuant to MCR 7.216(C)(1), the Court orders the ASSESSMENT OF SANCTIONS because plaintiff's appeal is frivolous and vexatious. Plaintiff-appellant Brenda White shall pay sanctions of \$500.00 to the Clerk of this Court within 28 days of the Clerk's certification of this order. We direct the Clerk of the Court to return without accepting any further filings by, or on behalf of, Brenda White in any non-criminal matter until she has made the payment required by this order. MCR 7.216(A)(7).


Presiding Judge



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

AUG 29 2019

Date


Chief Clerk

APPENDIX - A

STATE OF MICHIGAN

Chairperson:
George H. Wyatt III



Gretchen Whitmer, Governor
DEPARTMENT OF LICENSING
AND REGULATORY AFFAIRS

MICHIGAN ADMINISTRATIVE HEARING SYSTEM
MICHIGAN COMPENSATION APPELLATE COMMISSION
525 W. Allegan St.
P.O. Box 30468
Lansing, Michigan 48909-7968
Telephone: 517-284-9300
Facsimile: 517-284-5391
www.michigan.gov/mcac

BWDC Order # : 032017003
Order Mailed : 03/20/2017
Claim Received: 04/10/2017
By : WHITE, BRENDA R
For : WHITE, BRENDA R
MCAC Docket # : 170015

Panel Assigned:
WHEATLEY
GOOLSBY
OWCZARSKI

WHITE, BRENDA R
30585 SANDHURST DR APT 207
ROSEVILLE, MI 48066

HUMPHREY HANNON PC
HANNON, DONALD H
550 STEPHENSON HWY
STE 370
TROY, MI 48083

Re: WHITE, BRENDA R (SSN XXX-XX-4173) V
EDS CARE MANAGEMENT LLC AND TRAVELERS INDEMNITY COMPANY

PROOF OF MAILING

An OPINION/ORDER has been mailed to the parties listed above on
the date stamped on the OPINION/ORDER.

ORDER MAILED

APR 16 2019

MICHIGAN COMPENSATION
APPELLATE COMMISSION

APPENDIX- B

STATE OF MICHIGAN
MICHIGAN COMPENSATION APPELLATE COMMISSION

BRENDA R. WHITE,
PLAINTIFF,

V

DOCKET #17-0015

EDS CARE MANAGEMENT, LLC AND
TRAVELERS INDEMNITY COMPANY,
DEFENDANTS.

ON REMAND FROM MICHIGAN SUPREME COURT.

PLAINTIFF IN PRO PER,
DONALD H. HANNON FOR DEFENDANTS.

**OPINION UPON REMAND BY THE MICHIGAN SUPREME COURT
FOR FURTHER CLARIFICATION OF SANCTIONS IMPOSED ON PLAINTIFF**

WHEATLEY, COMMISSIONER

The Michigan Supreme Court by order entered on February 4, 2019, remanded this case to the Michigan Compensation Appellate Commission (Commission) pursuant to the following instructions:

On order of the Court, the application for leave to appeal the June 4, 2018 order of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Michigan Compensation Appellate Commission for further clarification of the details of the sanctions that it has imposed on the plaintiff. In all other respects, leave to appeal is DENIED, because we are not persuaded that the question presented should be reviewed by this Court.

We do not retain jurisdiction.

The Commission opinion mailed January 30, 2018, reviewed by the Michigan Supreme Court, affirmed the opinion/order of Magistrate Logan of the Workers' Compensation Agency, wherein the magistrate dismissed for lack of jurisdiction an Application for Mediation or Hearing filed by the plaintiff on December 13, 2016.

The magistrate's order, mailed March 20, 2017, dismissed plaintiff's April 2015 petition for lack of jurisdiction because the redemption that plaintiff has continued to relitigate through the years became final in **March 2009**. The claimant did not appeal the redemption during the statutory 15-day appeal period and plaintiff received the appropriate checks in March 2009. Our opinion affirming the magistrate's decision was based on the finality of the March 2009 redemption. As discussed below, the finality of the redemption is the reason we have imposed sanctions.

The Commission in its January 30, 2018, order posed a \$2,500.00 sanction on the plaintiff for vexatious litigation pursuant to § 418.861b.

This provision of the Workers' Compensation Statute says:

418.861b Vexatious claim or proceedings; disciplinary action.

Sec. 861b. The commission, upon its own motion, or the motion of any party, may dismiss a claim for review, assess costs, or take other disciplinary action when it has been determined that the claim or any of the proceedings with regard to the claim was vexatious by reason of either of the following:

(a) That the claim was taken for purposes of hindrance or delay or without any reasonable basis for belief that there was meritorious issue to be determined on appeal.

(b) That any pleading, motion, argument, petition, brief, document, or appendix filed in the cause or any testimony presented in the cause was grossly lacking in the requirements of propriety or grossly disregarded the requirements of a fair presentation of the issues.

As noted in our opinion the plaintiff did not appeal the redemption order and it became final on March 10, 2009. The plaintiff then in April 2015 filed a new petition claiming same dates of injury, same carrier, alleging the same injuries that were redeemed on February 23, 2009.

Also, it is noted the magistrate dismissed plaintiff's petition for lack of jurisdiction and the Commission affirmed in September 2015. The Court of Appeals and Supreme Court denied leave to appeal.

The December 13, 2016, petition filed by the plaintiff claimed the same dates, same injuries, and same carrier, alleging the same injuries that redeemed on February 23, 2009.

Of further clarification, page 12 of the transcript of the hearing before Magistrate Logan in regards to defendants motion to dismiss plaintiff's application, the following colloquial took place:

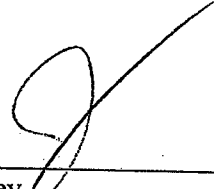
MS. WHITE: Now, you are aware this is the same from when I was down here before? He even tried to say this is new. This is based on--this is the same case

that's in Washington. This is based on the same information when I filed that motion before in 2015. It's the same case. It's the same motion.

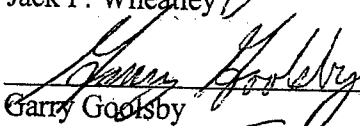
MAGISTRATE LOGAN: Well, that's the problem. It's the same case that you filed in 2007 and redeemed it in 2009.

In clarification, this claim by plaintiff was vexatious under the statute because plaintiff could not have "any reasonable basis for belief that there was meritorious issue to be determined on appeal."

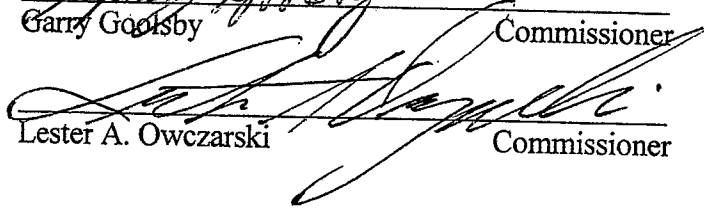
Commissioners Goolsby and Owczarski concur.



Jack F. Wheatley Commissioner



Garry Goolsby Commissioner



Lester A. Owczarski Commissioner

ORDER MAILED

APR 16 2019

**MICHIGAN COMPENSATION
APPELLATE COMMISSION**

STATE OF MICHIGAN
MICHIGAN COMPENSATION APPELLATE COMMISSION

BRENDA R. WHITE,
PLAINTIFF,

V

DOCKET #17-0015

EDS CARE MANAGEMENT, LLC AND
TRAVELERS INDEMNITY COMPANY,
DEFENDANTS.

This matter returns to the Michigan Compensation Appellate Commission (Commission) upon remand by the Michigan Supreme Court for further clarification of sanctions imposed on plaintiff.

THEREFORE, in clarification, pursuant to § 418.861b, the claim by plaintiff was vexatious under the statute because plaintiff could not have "any reasonable basis for belief that there was meritorious issue to be determined on appeal."

FURTHER, the sanctions provided in the Commission's order mailed January 30, 2018, and conditions thereto remain extant.

THEREFORE, this is a final order closing this appeal.

Jack F. Wheatley

Commissioner

Garry Goolsby

Commissioner

Lester A. Owczarski

Commissioner

ORDER MAILED

APR 16 2019

MICHIGAN COMPENSATION
APPELLATE COMMISSION

Order

January 2, 2020

160298 & (33)

BRENDA R. WHITE,
Plaintiff-Appellant,

v

EDS CARE MANAGEMENT, LLC, and
TRAVELERS INDEMNITY COMPANY,
Defendants-Appellees.

Michigan Supreme Court
Lansing, Michigan

Bridget M. McCormack,
Chief Justice

David F. Viviano,
Chief Justice Pro Tem

Stephen J. Markman
Brian K. Zahra
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh,
Justices

SC: 160298
COA: 349018
MCAC: 17-000015

On order of the Court, the application for leave to appeal the August 29, 2019 order of the Court of Appeals and the defendants' motion to dismiss are considered. The defendants' motion to dismiss is GRANTED and the application is DISMISSED, because the plaintiff is a vexatious litigator under MCR 7.316(C)(3). We direct the Clerk of this Court not to accept any further filings from the plaintiff in this matter unless the plaintiff has obtained leave and has submitted the filing fee required by MCR 7.319.



a1216

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

January 2, 2020

Clerk

APPENDIX-C

BRENDA R. WHITE-PETITIONER-(PRO-SE)

VS

EDS CARE MANAGEMENT LLC and TRAVELERS

INDEMNITY COMPANY – RESPONDENT (S)

EXHIBITS

Exhibit A- a copy of a letter sent to Brenda White, from the Michigan Court of Appeals, dated May 31, 2019, in regards to an apology letter regarding two errors made by the Michigan Court of Appeals, adding Judge Michael Servitto, as a Judge to the docket and not adding Travelers Indemnity Company as a defendant on the docket, and regarding an updated docket removing Judge Michael Servitto, from the docket and adding Travelers Indemnity as a defendant on the docket.

Exhibit B- a copy of a two page document from a Case Law Update, in a Spring 2018 Workers Compensation Newsletter by Martin L. Critchell, regarding the Brenda R. White v EDS Care Management LLC and Travelers Indemnity Company Case and other cases.

Exhibit C- a copy of an email letter Brenda White, sent to Attorney General Dana Nessel, dated September 26, 2019.

Exhibit D- a copy of an email letter Brenda White, sent to Richard L. Cunningham, head of criminal division, dated November 26, 2019.

Exhibit E- a copy of a letter sent to Brenda and Joseph White from Richard L. Cunningham, head of the criminal division from Attorney General Dana Nessel's office, dated December 3, 2019.

CHRISTOPHER M. MURRAY
CHIEF JUDGE
JANE M. BECKERING
CHIEF JUDGE PRO TEM
DAVID H. SAWYER
MARK J. CAVANAGH
KATHLEEN JANSEN
JANE E. MARKEY
PATRICK M. METER
KIRSTEN FRANK KELLY
KAREN FORT HOOD
STEPHEN L. BORRELLO
DEBORAH A. SERVITTO
ELIZABETH L. GLEICHER
CYNTHIA DIANE STEPHENS



State of Michigan
Court of Appeals
Troy Office

MICHAEL J. KELLY
DOUGLAS B. SHAPIRO
AMY RONAYNE KRAUSE
MARK T. BOONSTRA
MICHAEL J. RIORDAN
MICHAEL F. GADOLA
COLLEEN A. O'BRIEN
BROCK A. SWARTZLE
THOMAS C. CAMERON
JONATHAN TUKEL
ANICA LETICA
JAMES ROBERT REDFORD
JUDGES
JEROME W. ZIMMER JR.
CHIEF CLERK

May 31, 2019

Brenda White
30585 Sandhurst Dr.
Apt. 207
Roseville, MI 48066

Re: **Brenda R White v EDS Care Management LLC**
Court of Appeals No. **349018**
Lower Court No. **17-000015**

Dear Ms. White:

In response to your letter received on May 24, 2019, please be advised that Judge Michael Servitto, who was added to this case in error has been removed from the docket, as you noted. Also, Travelers Indemnity has been added as a defendant. The Court apologizes for its oversight. An updated docket sheet is enclosed for your review.

Very truly yours,

Clare M. Cylkowski
District Commissioner

By: 
Matthew Johnson

CMC/mbj

Enclosure

cc: Donald Hannon w/o encl.

EXHIBIT-A

DETROIT OFFICE
CADILLAC PLACE
3020 W. GRAND BLVD. SUITE 14-300
DETROIT, MICHIGAN 48202-6020
(313) 972-5678

TROY OFFICE
COLUMBIA CENTER
201 W. BIG BEAVER RD. SUITE 800
TROY, MICHIGAN 48064-4127
(248) 524-8700

GRAND RAPIDS OFFICE
STATE OF MICHIGAN OFFICE BUILDING
350 OTTAWA, N.W.
GRAND RAPIDS, MICHIGAN 49503-2349
(616) 456-1167

LANSING OFFICE
925 W. OTTAWA ST.
P.O. BOX 30022
LANSING, MICHIGAN 48909-7522
(517) 373-0786

Caselaw Update

By Martin L. Critchell

The Michigan Supreme Court will decide the availability of two statutes in the workers' compensation act that allow an employee to sue an employer for damages as well as for workers' compensation in the case of *McQueer v Perfect Fence Co* (Docket no. 153829). One is the first sentence of MCL 418.171(4),¹ which the Court of Appeals said applied given that "[Perfect Fence] employed [David J. McQueer] on the condition that his employment would be 'off the books.'" Further, according to [McQueer], while he was being transported to the hospital following the accident, he was told by Peterson [his supervisor] to *not* tell the hospital that he was employed by [Perfect Fence] and that there was no workers' compensation coverage for him."² The other statute in the fourth sentence of MCL 418.131(1),³ which the Court of Appeals said applied given that "[McQueer] was ordered by a supervisory employee to stand beneath the bucket of a Bobcat while his supervisor used the bucket to push or pound the posts into the ground, then it is clear that [he] was exposed to a continually operative dangerous condition..."⁴ allowing the inference of the specific intent to injure.

A decision is expected by the end of the 2017-2018 Term of the Court on Tuesday, July 31, 2018.

The Michigan Court of Appeals has not issued an opinion that can be cited as authority to apply in another workers' compensation case since last issue of the *Newsletter*.

To begin 2018, the Michigan Compensation Appellate Commission decided four cases involving the administration of workers' compensation cases, *Grant v Suburban Mobility Auth for Regional Transp (SMART)*,⁵ *Davis v Wolverine Packing Co*,⁶ *Veldheer v Quality Dining, Inc.*,⁷ and *White v EDS Care Mgt LLC*.⁸

The administrative issue presented to this Commission in the case of *Grant* concerned the statute requiring an employer to *immediately report* the coordination of compensation to the Workers' Compensation Agency, MCL 418.354(10).⁹ The Commission said that SMART had *immediately reported* the coordination of compensation given that the reporting was on September 11 following the agreement of the lawyer about the amount on August 8 to the calculation after July 17, 2013. *Grant* at 2. ("Under these facts, it can hardly be said that [Grant] was unaware of the agreed calculations...") Oddly, the Commission did not question the standing of the employee to question the speed of reporting given that an employer must report to the Agency, not an employee receiv-

ing compensation. It would seem that only the Agency could contest the speed of reporting the coordination of compensation. Nothing precludes coordination or the continued coordination of compensation when an employer does not *immediately report* that coordination to the Agency.

The administrative issue in *Davis* concerned the ability to resolve a dispute that occurred after a decision had been appealed. After a decision by the Workers' Compensation Board of Magistrates (COLOMBO, M., presiding), Wolverine Packing appealed to the Commission and later, asked Curtis Davis to report for a medical examination by the terms of MCL 418.385.¹⁰ When Davis did not go, Wolverine Packing asked the Commission to suspend the interim appeal ("70%") benefit that was being paid. Davis objected saying that partial statements of fact made by Wolverine Packing were not accurate or not complete. *Davis* at 1-2.

The Commission decided the problem should be considered by the Board. *Davis* at 2. ("the parties disagree on the sufficiency and accuracy of the evidence that has been provided...we remand this matter to the Board of Magistrates for the limited purpose of considering [Wolverine Packing's] [motion]...")

The administrative issue in the case of *Veldheer* and *White* was the imposition of the sanctions available by the terms of MCL 418.861b.¹¹

In the case of *Veldheer*, the Board of Magistrates decided a dispute between two lawyers over the recovery of the costs and a fee for the successful prosecution of a claim by Elizabeth Veldheer. The Board ruled that Schroder was entitled to reimbursement of all his costs and all of the fee from Veldheer. *Veldheer* at 1. Viilo appealed this decision to the Appellate Commission, *Id.*, arguing that the Board was wrong as a matter of law "when [the Board] denied his motion to compel answers to interrogatories from Schroeder" and "by not splitting the attorney fees at issue." *Id.* at 3.

The Commission recognized that the questions presented by Viilo were meritless. *Id.* (discovery is fully under the discretion of the [Board of Magistrates.] *** the record is perfectly clear that no steps were ever taken by Viilo to substitute [as] counsel [for Veldheer]...")

The Commission denied the request by Schroder for lack of detail. *Id.* at 4. ("In [Schroeder's] motion for sanctions, he makes no specific request or recommendations on what those sanctions should be...") But imposed sanctions on its own, sanctions of the costs and the fee of the lawyer that Schroder

EXHIBIT-B1



had hired. *Id.* ["[Viilo] should be held responsible for Schroeder's costs and fees in defending himself at the trial and the current appeal."]

There are two features to be noted. One is that the Commission did not have subject-matter jurisdiction given that disputes over attorney fees decided by the Board must be appealed to the Director. MCL 418.858(1).¹² And all that can be done is dismiss. *Fox v Bd of Regents of the Univ of Mich.*¹³

The other feature is the extent of the sanction. Section 861b concerns only the vexatiousness of the appeal, not of the trial, given that the *claim was vexatious* means the *claim for review* and not the application for mediation or hearing.

The Commission, upon its own motion, or the motion of any party, may dismiss a *claim for review*, assess costs, or take other disciplinary action when it has been determined that the claim or any of the proceedings with regard to the *claim* was vexatious by reason of either of the following..." (emphasis added)

In the case of *White*, the Commission assessed Brenda R. White a sanction of \$2,500.00 for appealing an order of the Board of Magistrate approving an agreement to redeem liability, an order that was final and satisfied by EDS Care. *White* at 1. ("The redemption was not appealed during the 15-day appeal period. The appropriate checks were mailed...")

The particular appeal was not the first. Indeed, Brenda R. White was a "serial" filer. *Id.* at 2. ("[Brenda R. White] has continued to file applications based on the same dates of injury...and has inundated the Workers' Compensation System, the courts of the State of Michigan, and, in fact, the Supreme Court of the United States with filings.")

There are two features to this. One is that the Commission did not specify who to pay, the party requesting the sanction, EDS Car/Travelers, or the Commission itself.

The other noteworthy feature is that payment of the sanction was a prerequisite to filing anything further by White. *Id.* at 3. ("[White] may not file any additional claims [claims for review] with the Commission regarding this matter..." ✕

About the Author

Mr. Critchell has practiced law at Conklin Benham since 1976 emphasizing cases before the Michigan Compensation Appellate Commission, Court of Appeals, and Supreme Court of Michigan. He has taught at Western Michigan University Cooley School of Law since 2012. And he has been a contributing author to the Institute for Continuing Legal Education and the Wayne State University Law School Law Review.

Endnotes

- 1 "Principals willfully acting to circumvent the provisions of this section or section 611 by using coercion, intimidation, deceit, or other means to encourage persons who would otherwise be considered employees within the meaning of this act pose as contractors for the purpose of evading this section or the requirements of section 611 shall be liable subject to the provisions of section 641."
- 2 *McQueer v Perfect Fence Co*, unpublished opinion of the Court of Appeals, issued on April 19, 2016 (Docket no. 325619).
- 3 "An employer shall be deemed to have intended to injure if the employer had actual knowledge that an injury was certain to occur and willfully disregarded that knowledge."
- 4 *McQueer* unpublished opinion of the Court of Appeals at 10.
- 5 *Grant v Suburban Mobility Auth for Regional Transp (SMART)*, 2018 Mich ACO 1.
- 6 *Davis v Wolverine Packing Co*, 2018 Mich ACO 2.
- 7 *Veldheer v Quality Dining, Inc*, 2018 Mich ACO 3.
- 8 *White v EDS Care Mgt, LLC*, 2018 Mich ACO 4.
- 9 "The employer or carrier taking a credit or making a reduction as provided in this section shall immediately report to the bureau the amount of any credit or reduction, and as requested by the bureau, furnish to the bureau satisfactory proof of the basis for a credit or reduction."
- 10 "After the employee has given notice of injury and from time to time thereafter during the continuance of his or her disability, if so requested by the employer or the carrier, he or she shall submit himself or herself to an examination by a physician or surgeon authorized to practice medicine under the laws of the state, furnished and paid for by the employer or the carrier."
- 11 "The commission, upon its own motion, or the motion of any party, may dismiss a claim for review, assess costs, or take other disciplinary action when it has been determined that the claim or any of the proceedings with regard to the claim was vexatious..."
- 12 "The payment of fees for all attorneys and physicians for services under this act shall be subject to the approval of a workers' compensation magistrate. In the event of disagreement as to such fees, an interested party may apply to the bureau for a hearing. After an order by the workers' compensation magistrate, review may be had by the director if a request is filed within 15 days. Thereafter the director's order may be reviewed by the appellate commission on request of an interested party, if a request is filed within 15 days."
- 13 *Fox v Bd of Regents of the Univ of Mich*, 375 Mich 238; 242-243; 134 NW2d 146 (1965).

EXHIBIT-B₂

Comcast
Regarding Four Criminal Court Cases.
Sep 26, 2019 at 9:42:04 PM
Attorney General Dana Nessel
white Ice Joseph
Brenda White

Attorney General Dana Nessel,

Following two recent telephone contacts I had with your office on August 23, 2019 and September 26, 2019, regarding three cases that I have in the Michigan Supreme Court, I requested that you as the Michigan Attorney General intervene in these criminal cases, and your office instructed me to send you an email with my questions and concerns and to request that you intervene in these criminal cases, following three recent orders from the Michigan Court of Appeals, stating that the listed cases are criminal. These cases are a health and safety risk for me and the public at large, and the cases need to be resolved. Joseph White also made contact with your office on the above dates, and he is requesting that you as the Michigan Attorney General intervene and turn his case over as criminal, because the Michigan Court of Appeals, has also stated that his case is criminal, which is also a health and safety risk for him and the public at large. The cases are: Brenda White v Southeast Michigan Surgical Hospital and Dr. Gary Docks, MSC: 160200. Macomb County Circuit Court No. 2012-002017-NH Brenda R. White v EDS Care Management LLC and Travelers Indemnity Company. SC: 160298. Michigan Compensation Appellate Commission Case No. 17-000015 Brenda Ford White v O. L. Matthews M. D. et al, SC: 160198. Wayne County Third Circuit Court No. 13-013472-NH. Joseph White v Detroit East Community Mental Health et al, SC: 160201. Wayne County Circuit Court No. 11-011126-CZ

Brenda White and Joseph White
30585 Sandhurst Dr. Apt. 207
Roseville, Michigan 48066
Phone: (586) 773-0251
Email: Brendawhite232@comcast.net
Email: josephwhite585@comcast.net

EXHIBIT - C

Comcast 10/26/2019 7:15:05 PM

Subject: Regarding an ending letter from your office.

Date: Nov 26, 2019 at 7:15:05 PM

To: Brenda White brendawhite232@comcast.net, Ice Joseph white

josephwhite585@comcast.net, Mr. Cunningham

cc: mr.cunningham@ny.gov

Mr. Cunningham,

This is in regards to a telephone conversation that Brenda White had with you on November 26, 2019. You stated that your office would not be handling Brenda and Joseph White's criminal cases. You stated that you would respond in writing to Brenda White. Attached is a copy of the original letter sent to Attorney General Dana Nessel office on September 26, 2019. The attached letter has has my email address and Joseph email address along with our home address. Please send a separate letter to Joseph White, because his case is included in the attached letter.

Thank you in advance,

Brenda White

Email: brendawhite232@comcast.net

Joseph White

Email: josephwhite585@comcast.net

pdf

CPD0000 1/1/19

10/1/19

Sent from my iPhone

EXHIBIT-D

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



DANA NESSEL
ATTORNEY GENERAL

CADILLAC PLACE
3030 WEST GRAND BOULEVARD
DETROIT, MICHIGAN 48202

December 3, 2019

Brenda and Joseph White
30585 Sandhurst Dr., Apt 207
Roseville, MI 48066

Dear Mr. and Mrs. White:

This letter is written in response your recent request that the Michigan Attorney General intervene in several lawsuits in which you are a party. In your request you cite several different civil actions, but assert that the Court of Appeals has determined that these cases are criminal. You state that the Court of Appeals issued orders recognizing those cases as criminal, but you failed to provide copies of any such orders.

I have considered your request and reviewed the Court of Appeals records concerning the cases in which either one of you was a party. I am simply not persuaded that there is any valid basis for the involvement of the Attorney General in your lawsuits. Likewise, I see no basis for any criminal proceedings based on the information you presented. Within the scope of prosecutorial discretion, I am closing our file on this matter without further action.

Sincerely,

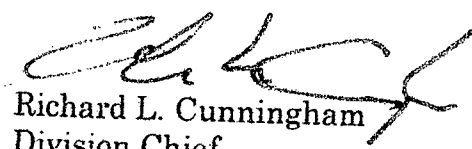

Richard L. Cunningham
Division Chief
Criminal Division

EXHIBIT. E