

APPENDIX “A”

NOT RECOMMENDED FOR PUBLICATION

No. 23-1904

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**FILED**

Apr 25, 2024

KELLY L. STEPHENS, Clerk

| | |
|------------------------------|---|
| DANIEL LUKE MEIER, |) |
| |) |
| Plaintiff-Appellant, |) |
| v. |) |
| ALLSTATE PROPERTY & CASUALTY |) |
| INSURANCE COMPANY, |) |
| |) |
| Defendant-Appellee. |) |

ORDER

Before: NORRIS, SUHRHEINRICH, and READLER, Circuit Judges.

Daniel Luke Meier, a Michigan litigant proceeding pro se, appeals the district court's judgment in favor of Allstate Property & Casualty Insurance Company. This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. *See Fed. R. App. P. 34(a)*. As set forth below, we affirm the district court's judgment.

This case arose from prior litigation in the Michigan state courts involving an accident that occurred on June 3, 2013, when Meier's motorized bicycle was hit by a vehicle driven by Amanda Berger. Meier sued Berger and Allstate, her insurer, in the Wayne County Circuit Court. After that litigation ended in the defendants' favor, Meier filed this action alleging that Allstate committed fraud and conspired with the state-court judges to deny him due process.

In 2013, Meier, through counsel, filed two lawsuits related to the accident in the Wayne County Circuit Court—one against Berger seeking personal injury damages and another against Allstate seeking personal injury protection (PIP) benefits. Both cases were submitted to case evaluation panels, but the evaluations were not accepted by all parties. *See Mich. Ct. R. 2.403*.

The two cases were then consolidated before Judge Kathleen Macdonald (*Meier I*). Allstate filed a motion for summary disposition; Judge Macdonald granted Allstate's motion and denied Meier's subsequent motion for reconsideration. The Michigan Court of Appeals dismissed Meier's appeal without prejudice for failure to comply with the court's rules.

Meier, proceeding pro se, filed another lawsuit against Berger and Allstate in the Wayne County Circuit Court in 2016 (*Meier II*). In addition to reasserting his claims for personal injury damages and PIP benefits, Meier alleged "fraud upon the court." According to Meier, the "entire proceedings" in *Meier I* were "invalid":

There were several kinds of intolerable fraudulent behavior going on here, including the fraud upon the court preventing the case from moving forward and interfering with the operation of the judicial machinery so it can not perform its impartial task of adjudicating the case before the court by Judge Kathleen M[a]c[d]onald, the frivolous and malicious filings by the defendants, and the negligence and malice on the part of the plaintiff's attorney all creating manifest injustice.

Meier specifically alleged that, after the case evaluation panels unanimously found in his favor and effectively awarded him summary judgment, Allstate "maliciously, vexatiously, and in bad faith" filed a motion to dismiss that was barred by the doctrines of collateral estoppel and res judicata and that Judge Macdonald granted Allstate's "illegal motion" without a "reasoned opinion," which demonstrated "bad faith" on her part.

After filing his complaint in *Meier II*, Meier moved for default judgment against Allstate; Judge Macdonald denied his motion. The case was later reassigned to Judge David A. Groner. Allstate moved to dismiss Meier's claim against it for failure to comply with the court's order compelling him to provide discovery responses. Judge Groner granted Allstate's motion and dismissed Meier's claim against Allstate with prejudice. Meier appealed, and the Michigan Court of Appeals affirmed the dismissal of his claim against Allstate. *Meier v. Berger*, No. 336946, 2018 WL 4658038 (Mich. Ct. App. Sept. 27, 2018) (per curiam), *recons. denied* (Mich. Ct. App. Nov. 13, 2018). The Michigan Supreme Court denied Meier's application for leave to appeal, and the United States Supreme Court denied his petition for a writ of certiorari. *Meier v. Berger*, 925 N.W.2d 870 (Mich.), *cert. denied*, 140 S. Ct. 263 (2019).

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In 2022, nearly three years later, Meier filed the current complaint for “42 U.S.C. § 1983 depravation [sic] of civil rights and fraud upon the court” against Allstate in the United States District Court for the Northern District of Texas. Meier asserted that he was “not seeking to relitigate a Michigan case” but that he sought relief from “all orders made in violation of the Law.” Meier alleged that “Allstate repeatedly, and with malice, conspired with judges to block a jury trial [and] block default judgments, filed multiple frivolous motions in bad faith, and blocked discovery.” Meier continued to assert that the case evaluation panels in *Meier I* unanimously found in his favor, that their evaluations constituted res judicata as to the merits of the case, that Allstate filed a “fraudulent and baseless” motion for summary disposition in bad faith after it “lost both evaluations,” and that Judge Macdonald “arbitrarily and illegally granted” Allstate’s motion for summary disposition, “which should have been flatly denied by law.” According to Meier, he filed *Meier II* “to address both the new illegal and fraudulent actions upon the court by Allstate and denial of due process rights in the original proceeding.” Meier claimed that, in *Meier II*, Judge Macdonald improperly denied his motion for default judgment because Allstate never filed a motion to set aside the entry of default. According to Meier, Allstate’s default amounted to an admission in his favor and prevented Allstate from proceeding in *Meier II*. Meier further asserted that, by waiving a response to his petition for a writ of certiorari before the United States Supreme Court, Allstate “admitt[ed] everything stated by [him] was true.”

Meier’s complaint was transferred to the United States District Court for the Eastern District of Michigan. The district court granted Meier leave to proceed in forma pauperis and ordered him to complete service within 14 days. Allstate later moved to dismiss Meier’s complaint for failure to complete service of process within that deadline. The district court denied Allstate’s motion to dismiss, noting that Meier apparently had not served Allstate with the complaint or complied with its order but finding that Allstate had received notice of the action and made an appearance. The district court directed Allstate to answer or otherwise respond to the complaint by December 19, 2022. Allstate filed an answer on that date.

Meier then moved to strike Allstate's answer and for summary judgment, arguing that the district court should strike Allstate's answer as insufficient, deem his allegations in the complaint admitted, and grant summary judgment in his favor. A magistrate judge denied Meier's motion to strike and recommended that the district court deny his motion for summary judgment. Over Meier's objections, the district court adopted the magistrate judge's recommended disposition and denied Meier's summary-judgment motion. Meier filed an interlocutory appeal, which we dismissed for lack of jurisdiction because the district court's denial of summary judgment was not a final judgment and therefore was not immediately appealable. *Meier v. Allstate Prop. & Cas. Ins. Co.*, No. 23-1416, 2023 WL 5045088 (6th Cir. June 22, 2023), *reh'g denied* (6th Cir. July 20, 2023).

Allstate moved for summary judgment, asserting that Meier's claims were barred by res judicata. The magistrate judge recommended that the district court grant Allstate's summary-judgment motion and dismiss Meier's complaint. Meier objected to the magistrate judge's recommended disposition and moved for permissive joinder, seeking to add several individuals as defendants, including the state-court judges, the federal magistrate judge, and the attorneys involved in the state-court proceedings and this case. The district court overruled Meier's objections, adopted the magistrate judge's recommended disposition, granted Allstate's summary-judgment motion, dismissed the complaint with prejudice, and terminated the joinder motion as moot. Meier filed a motion for reconsideration, which the district court denied. This timely appeal followed.

Motion for Clarification/Change of Venue: Meier has filed a motion for clarification or, in the alternative, for a change of venue. Meier contends that our dismissal of his interlocutory appeal and denial of his subsequent motion for clarification without "a reasoned opinion" constituted "intentional negligence and an abuse of process and bias against" him. According to Meier, there must be a change of venue "[i]f this court is going to display unrelenting bias and not consider the applicable laws."

As explained in our prior order, we lacked jurisdiction over Meier’s appeal from the district court’s denial of his motion for summary judgment because that decision was not a “final judgment.” *See* 28 U.S.C. § 1291; *Johnson v. Jones*, 515 U.S. 304, 313 (1995); *McDonald v. Flake*, 814 F.3d 804, 815 (6th Cir. 2016); *Harrison v. Ash*, 539 F.3d 510, 521 (6th Cir. 2008). Because the district court has now issued a final judgment, Meier may now challenge the district court’s denial of his motion for summary judgment in this appeal—which he does. As for Meier’s motion for a change of venue, we review appeals from decisions by the United States District Court for the Eastern District of Michigan; no other court has the authority to do so. *See* 28 U.S.C. §§ 41, 1294(1).

Meier’s Motion for Summary Judgment: Meier challenges the district court’s denial of his motion for summary judgment. Meier argues that Allstate never filed a proper response to his complaint and therefore admitted his allegations, warranting summary judgment in his favor.

Allstate initially moved to dismiss Meier’s complaint for failure to complete service of process within the deadline set by the district court’s order. *See* Fed. R. Civ. P. 12(b)(5), 41(b). Meier argues that Allstate’s motion to dismiss did not deny the allegations in his complaint and that his allegations should have been considered admitted under Federal Rule of Civil Procedure 8(b)(6). But Rule 8 applies to “pleadings,” and motions are not “pleadings.” Fed. R. Civ. P. 7. And Allstate’s motion to dismiss extended the time for filing its responsive pleading—that is, its answer. *See* Fed. R. Civ. P. 12(a)(4).

After the district court denied its motion to dismiss, Allstate filed its answer, its first responsive pleading, by the deadline set by the court. Meier then moved to strike Allstate’s answer and for summary judgment, arguing that Allstate’s general denials did not address his specific allegations, that those allegations should be deemed admitted, and that summary judgment should be granted in his favor based on his “prima facie complaint.” The magistrate judge denied Meier’s motion to strike, and the district court denied his summary-judgment motion based on the magistrate judge’s recommendation.

We review the magistrate judge's denial of Meier's motion to strike for an abuse of discretion. *Operating Eng'r's Loc. 324 Health Care Plan v. G & W Constr. Co.*, 783 F.3d 1045, 1050 (6th Cir. 2015). A district court may "strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." Fed. R. Civ. P. 12(f)(2). "Motions to strike are viewed with disfavor and are not frequently granted." *Operating Eng'r's Loc. 324 Health Care Plan*, 783 F.3d at 1050.

"In responding to a pleading, a party must . . . admit or deny the allegations asserted against it by an opposing party." Fed. R. Civ. P. 8(b)(1)(B). Although "[a] denial must fairly respond to the substance of the allegation," Rule 8 allows for general denials: "A party that intends in good faith to deny all the allegations of a pleading . . . may do so by a general denial. A party that does not intend to deny all allegations must either specifically deny designated allegations or generally deny all except those specifically admitted." Fed. R. Civ. P. 8(b)(2), (3).

In his motion to strike, Meier cited Allstate's response to the first paragraph of his complaint as an example of its improper denials. Meier argued that this paragraph set forth "irrefutable" facts denied by Allstate: (1) "Allstate filed a waiver in the U.S. Supreme Court," (2) "[t]here was no brief in opposition filed by Allstate," and (3) "[t]here was an affidavit of fraud, filed by the plaintiff, against Allstate." The first paragraph provided in relevant part:

This is a prima facie complaint by plaintiff Daniel Luke Meier of 42 U.S.C. § 1983 depravation [sic] of civil rights and fraud upon the court already fully admitted by Allstate . . . before the U.S. Federal Supreme Court. Allstate filed a waiver admitting all lower court facts, circumstances, violations of law, and applications of law as being set forth herein. There was no brief in opposition filed by Allstate. There was also an affidavit of fraud, filed by the plaintiff, against Allstate . . . in the lower courts, which was never opposed and accepted as factual evidence before all courts.

This paragraph referred to Allstate's waiver of a response to Meier's petition for a writ of certiorari. But Allstate's waiver did not constitute an admission because a response was not required. *See* Sup. Ct. R. 15(1). This paragraph also referred to an "affidavit of fraud" filed by Meier in *Meier II*, but his filing of a standalone affidavit did not require a response. In light of Meier's allegations about Allstate's purported "admissions," Allstate properly responded to this paragraph with a

general denial: "In response to Paragraph 1, Defendant denies the allegations contained therein for the reason that they are untrue."

The magistrate judge did not abuse his discretion in denying Meier's motion to strike given that Allstate's answer provided appropriate paragraph-by-paragraph responses to the complaint. And because Meier based his motion for summary judgment on his arguments that Allstate's answer should be stricken and that his allegations should be deemed admitted, the district court properly denied his summary-judgment motion.

Allstate's Motion for Summary Judgment: Meier also challenges the district court's decision granting summary judgment in favor of Allstate based on res judicata. "We review de novo a district court's application of the doctrine of res judicata." *Bragg v. Flint Bd. of Educ.*, 570 F.3d 775, 776 (6th Cir. 2009).

Federal courts must “give the judgments of state courts the same preclusive effect as they are entitled to under the laws of the state rendering the decision.” *Exec. Arts Studio, Inc. v. City of Grand Rapids*, 391 F.3d 783, 795 (6th Cir. 2004). “Under Michigan law, a ‘second, subsequent action’ is barred by res judicata when ‘(1) the prior action was decided on the merits, (2) both actions involve the same parties or their privies, and (3) the matter in the second case was, or could have been, resolved in the first.’” *AuSable River Trading Post, LLC v. Dovetail Sols., Inc.*, 874 F.3d 271, 274 (6th Cir. 2017) (quoting *Adair v. State*, 680 N.W.2d 386, 396 (Mich. 2004)). “Res judicata is applied broadly by Michigan courts, barring ‘not only claims already litigated, but also every claim arising from the same transaction that the parties, exercising reasonable diligence, could have raised but did not.’” *Id.* (quoting *Adair*, 680 N.W.2d at 396).

Meier does not dispute that his prior state-court proceedings and this action involve the same parties or their privies or that the matters raised in this action were, or could have been, resolved in his prior state-court proceedings. Meier instead argues that the prior state-court judgment was “achieved through fraud upon the court” and therefore did not constitute “res judicata on the merits.” But Meier’s allegations of “fraud upon the court” were based on legal misconceptions or were decided against him in the prior state-court proceedings.

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For example, Meier alleged that the case evaluation panels in *Meier I* unanimously found in his favor, that their evaluations constituted res judicata as to the merits of the case, that Allstate filed a “fraudulent and baseless” motion for summary disposition in bad faith after it “lost both evaluations,” and that Judge Macdonald “arbitrarily and illegally granted” Allstate’s motion for summary disposition, “which should have been flatly denied by law.” But the case evaluations were not accepted by all parties and therefore were not binding on them. *See* Mich. Ct. R. 2.403. Under Michigan Court Rule 2.403(N)(1), “[i]f all or part of the evaluation of the case evaluation panel is rejected, the action proceeds to trial in the normal fashion.” Contrary to Meier’s arguments, this language does not mean that the parties are precluded from filing dispositive motions or that the case automatically goes to a jury.

Meier also alleged that Allstate defaulted by failing to respond to his complaint in *Meier II*, that Judge Macdonald acted improperly in denying his motion for default judgment, and that Allstate’s default precluded any subsequent proceedings. Meier appealed the denial of his motion for default judgment, and the Michigan Court of Appeals concluded that Judge Macdonald did not abuse her discretion in denying the motion. *Meier*, 2018 WL 4658038, at *3.

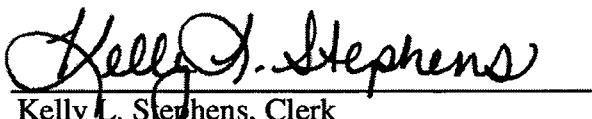
The state court’s dismissal of Meier’s claim against Allstate with prejudice in *Meier II* was an adjudication on the merits. *See Wilson v. Knight-Ridder Newspapers, Inc.*, 475 N.W.2d 388, 278-79 (Mich. Ct. App. 1991) (per curiam) (holding that a dismissal with prejudice for violation of a court order is an “adjudication on the merits” for res judicata purposes). And because Meier raised the same fraud allegations in this case as he did in that prior state-court case, the district court properly granted summary judgment in favor of Allstate based on res judicata.

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For these reasons, we **DENY** Meier's motion for clarification or, in the alternative, for a change of venue and **AFFIRM** the district court's judgment.

ENTERED BY ORDER OF THE COURT


Kelly L. Stephens
Kelly L. Stephens, Clerk

United States Court of Appeals for the Sixth Circuit

U.S. Mail Notice of Docket Activity

The following transaction was filed on 04/25/2024.

Case Name: Daniel Meier v. Allstate Property & Casualty Insurance Company
Case Number: 23-1904

Docket Text:

ORDER filed : We DENY Meier's motion for clarification or, in the alternative, for a change of venue and AFFIRM the district court's judgment. Mandate to issue. Decision not for publication. Pursuant to FRAP 34(a)(2)(C). Alan E. Norris, Circuit Judge; Richard F. Suhrheinrich, Circuit Judge and Chad A. Readler, Circuit Judge.

The following documents(s) are associated with this transaction:

Document Description: Order

Notice will be sent to:

Daniel Luke Meier
47610 Grand River Avenue
Suite 1197
Novi, MI 48374

A copy of this notice will be issued to:

Ms. Kinikia D. Essix
Mr. Kenneth P. Williams

APPENDIX “B”

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DANIEL LUKE MEIER,

Plaintiff,
v.
Case No. 22-cv-12154
Hon. Matthew F. Leitman

ALLSTATE PROPERTY AND
CASUALTY INS. CO,

Defendant.

**ORDER (1) OVERRULING PLAINTIFF'S OBJECTIONS (ECF No. 55) TO
REPORT AND RECOMMENDATION (ECF No. 51); (2) ADOPTING
RECOMMENDED DISPOSITION OF REPORT AND
RECOMMENDATION; (3) GRANTING DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT (ECF No. 37); AND (4) TERMINATING
PLAINTIFF'S MOTION FOR PERMISSIVE JOINDER (ECF No. 57) AS
MOOT**

In this action, Plaintiff Daniel Luke Meier brings claims against Defendant Allstate Property and Casualty Insurance Company (“Allstate”). (See Compl., ECF No. 1.) Meier says that in previous litigation that he filed against Allstate in state court, Allstate committed fraud and conspired with various state-court judges to deprive him of his day in Court. (See *id.*)

On March 30, 2023, Allstate moved for summary judgment. (See Mot., ECF No. 37.) Allstate asserted that the doctrine of *res judicata* barred Meier’s claims because he previously raised his fraud and conspiracy claims in state court, and the

state court rejected them. (*See id.*) The assigned Magistrate Judge agreed, and he issued a report and recommendation in which he recommended that the Court grant Allstate's motion and dismiss Meier's Complaint (the "R&R"). (*See R&R, ECF No. 51.*)

Meier has now filed objections to the R&R. (*See Objections, ECF No. 55.*) The Court has carefully reviewed the objections and **OVERRULES** them. As further explained below, the objections do not identify any specific error with the legal reasoning explained by the Magistrate Judge. Nor do the objections persuade the Court that *res judicata* does not bar Meier's claims here. Accordingly, the Court **ADOPTS** the recommended disposition of the R&R, **GRANTS** Allstate's motion, and **DISMISSES** Meier's Complaint.

I

A

The factual background and procedural history of this action were described in detail in the R&R. In brief, on June 3, 2013, Meier was injured when the motorized mountain bike he was driving was struck by a moving vehicle. (*See ECF No. 37-2, PageID.299.*) Meier thereafter filed a lawsuit against Allstate in the Wayne County Circuit Court for the payment of Michigan No-Fault Personal Injury Protection benefits. (*See ECF No. 37-5.*) The state court ultimately granted judgment against Meier in that case. (*See ECF No. 37-7.*)

In 2016, Meier filed a second action against Allstate in the Wayne County Circuit Court. (See ECF No. 37-11.) In that case, Meier claimed that both Allstate and the state-court judge assigned to his first suit committed fraud during that case. (See *id.*) The state court dismissed Meier's second action with prejudice due to his failure to participate in discovery. (See ECF No. 37-13.)

B

On August 23, 2022, Meier filed this action against Allstate in the United States District Court for the Northern District of Texas. (See Compl., ECF No. 1.) That court subsequently transferred Meier's action to this Court. In this case, Meier again claims that his state court proceedings were tainted by fraud and an illegal conspiracy perpetrated against him by Allstate and the presiding state court judges. (See *id.*)

On March 30, 2023, Allstate moved for summary judgment. (See Mot., ECF No. 37.) Allstate argued that Meier "clearly intend[ed] to relitigate the issues he alleged in his 2013 and 2016 lawsuits against Allstate, all of which have been adjudicated on the merits." (*Id.*, PageID.279.) Allstate therefore insisted that Meier's claims were "barred by the doctrine of *res judicata*." (*Id.*)

The Court referred Allstate's motion to the assigned Magistrate Judge. On June 21, 2023, the Magistrate Judge issued the R&R in which he agreed with Allstate that *res judicata* barred Meier's claims in this case. (See R&R, ECF No. 51.) The

Magistrate Judge explained that “even liberally construed, the Court cannot discern any claims of fraud in Meier’s instant federal complaint that he did not already litigate, or could not have litigated, during the prior state court proceedings. Thus, to the extent Meier asserts any fraud claims in this action, they are barred by *res judicata*.” (*Id.*, PageID.934.) The Magistrate Judge therefore concluded that “no genuine dispute remains to be resolved in this case,” and he recommended that the Court grant Allstate’s motion and dismiss Meier’s Complaint. (*Id.*) Meier filed objections to the R&R on July 3, 2023. (*See* Objections, ECF No. 55.)

III

The Court has carefully reviewed Meier’s objections, conducted a *de novo* review of the portions of the R&R to which Meier objected, and **OVERRULES** the objections. The objections are difficult to follow, but throughout the objections, Meier repeatedly asserts that his previous-state court lawsuits were meritorious, but he was “arbitrarily and unjustly denied decisions in his favor by acts of fraud upon the court.” (*Id.*, PageID.944.) And he insists that the decisions of the state courts cannot form the basis of *res judicata* because “orders obtained through fraud upon the court are never *res judicata* and can always be collaterally attacked as void as a matter of law.” (*Id.*, PageID.696.) Meier’s objections fail for several reasons.

First, and most importantly, Meier does not specifically address the legal reasoning and analysis explained by the Magistrate Judge. In the R&R, the

Magistrate Judge specifically considered Meier's argument that *res judicata* did not bar his claims because the relevant state-court rulings were procured by fraud, and he rejected it:

As to Allstate's motion based on *res judicata*, Meier's arguments in response are somewhat difficult to decipher, but, as best as can be discerned, he does not contest that his state court proceedings and the instant federal action involve the same parties or their privies – Meier, Allstate, and state court trial judges MacDonald and Groner. Rather, the gravamen of Meier's response appears to be that, for purposes of *res judicata*, Allstate cannot rely on "prior orders or judgments having been 'previously litigated' through fraud which have absolutely no impact whatsoever on the merits of this instant federal case" because "Allstate has not and cannot provide any proof *res judicata* applies to any of their prior orders or rulings made through fraud upon the court or that they preclude addressing anything moving forward." (ECF No. 39, PageID.580-81 (emphasis in original)). According to Meier, "[n]o order denying the Plaintiff a decision in his favor on what was admitted will ever be *res judicata*, because the original claims stated a claim on which relief could be granted and denial of that relief can only be done by fraud and the depravation of the Plaintiff's rights under the law," and thus "[t]he prior illegal orders supported by fraud upon the court is evidence of nothing except that it validates that injustice did in fact occur." (Id., PageID.578, 583). In addition to the fact that Meier has provided no basis for his circular and conclusory "fraud in perpetuity" arguments, those arguments also cannot help him escape the fact that, in Meier II, he raised the *exact same fraud claims* he now raises in this action, based on the *same alleged conspiracy* between Allstate and Judge MacDonald in Meier I that ultimately resulted in summary disposition for the defendants. To be clear, the fraud claims Meier raises in this case were already decided

against him in Meier II, making them a quintessential example for applying *res judicata*.

[....]

Likewise, to the extent Meier alleges that fraud occurred during the state trial proceedings in Meier II, such as his claim that the trial court fraudulently granted Allstate's motion to dismiss for failure to comply with discovery orders or denied his motion to default Allstate for failing to answer the complaint, Meier appealed the trial court's rulings to the Michigan Court of Appeals, which affirmed, and then to the Michigan Supreme Court, which denied his application for leave to appeal, and then to the U.S. Supreme Court, which denied cert. (ECF Nos 37-15, 37-16). Thus, Meier's claims of fraud pertaining to the proceedings in Meier II are barred by *res judicata*, which applies broadly to not only claims he actually litigated, "but also every claim arising from the same transaction that the parties, exercising reasonable diligence, could have raised but did not," Adair, 470 Mich. 105, 121, and any matters that "could have been resolved in the first [action]" involving the same parties that was decided on the merits. *Meier*, 2018 WL 4658038, at *4.

(R&R, ECF No. 51, PageID.930-931, 933; emphasis in original.)

Meier does not identify any error in this reasoning. More specifically, Meier does not respond to the Magistrate Judge's explanation that Meier's fraud claims here are barred by *res judicata* because he raised and/or could have raised these same fraud claims in state court. Instead, Meier simply repeats his argument that state-court orders procured by fraud cannot form the basis of *res judicata*. That is not responsive to the reasoning explained in the R&R. And as the Sixth Circuit has explained, where, as here, a plaintiff fails to "specifically address how the

[Magistrate Judge's] factual and legal recommendations were incorrect," a plaintiff has "waived any challenge" to those conclusions. *Fields v. Lapeer 71-A District Court Clerk*, 2 F. App'x 481, 482 (6th Cir. 2001) (holding that plaintiff's "conclusory objections" that did not address reasoning of the Magistrate Judge were "insufficient to preserve his appeal of the district court's judgment"). See also *Aldrich v. Bock*, 327 F.Supp.2d 743, 747 (E.D. Mich. 2004) (explaining that "[a]n 'objection' that does nothing more than state a disagreement with a magistrate's suggested resolution, or simply summarizes what has been presented before, is not an 'objection' as that term is used in this context"). Meier's other objections likewise either do not address the reasoning explained in the R&R, simply repeat the same arguments Meier made before, or both. Meier's objections are therefore insufficient as a matter of law.

Moreover, instead of attacking the *legal reasoning* of the Magistrate Judge, Meier repeatedly attacks *personal integrity* of the Magistrate Judge, accusing him of "tyranny" and "undermin[ing] the principles of justice, fairness, and equal treatment fundamental to a democratic legal system." (Objections, ECF No. 55, PageID.945-946.) There is no basis for such *ad hominem* attacks. The Magistrate Judge carefully considered Meier's arguments and explained, in a thorough and detailed R&R, why those arguments lacked merit. As the Court previously warned Meier, such

“baseless attacks” on the Magistrate Judge “have no place in this litigation.” (Order, ECF No. 42, PageID.795.)

For all of these reasons, the Court **OVERRULES** Meier’s objections, **ADOPTS** the Magistrate Judge’s recommended disposition of this action, and **DISMISSES** Meier’s Complaint.

IV

Finally, Meier has filed a motion for “permissive joinder” in which he asks the Court to allow him to amend his Complaint to add several Defendants to this action, including the state court judges who presided over his state-court litigation. (*See Mot.*, ECF No. 57.) Because the Court is dismissing Meier’s Complaint, it will **TERMINATE** his motion for permissive joinder as **MOOT**.

V

For all of the reasons, explained above, **IT IS HEREBY ORDERED** as follows:

- Meier’s objections (ECF No. 55) to the R&R are **OVERRULED**;
- The recommended disposition of the R&R (ECF No. 51) is **ADOPTED**;
- Allstate’s motion for summary judgment (ECF No. 37) is **GRANTED**;
- Meier’s Complaint (ECF No. 1) is **DISMISSED WITH PREJUDICE**;

and

- Meier's motion for permissive joinder (ECF No. 57) is **TERMINATED AS MOOT.**

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: September 13, 2023

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on September 13, 2023, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

(313) 234-5126

APPENDIX “C”

No. 23-1904

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED

May 24, 2024

KELLY L. STEPHENS, Clerk

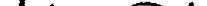
Before: NORRIS, SUHRHEINRICH, and READLER, Circuit Judges.

Daniel Luke Meier, a pro se Michigan litigant, has filed a motion for reconsideration of this court's order of April 25, 2024, denying his motion for clarification or, in the alternative, for a change of venue and affirming the district court's judgment.

Upon consideration, this panel concludes that it did not misapprehend or overlook any point of law or fact when it issued its order. *See Fed. R. App. P. 40(a)(2).*

We therefore **DENY** the motion for reconsideration.

ENTERED BY ORDER OF THE COURT


Kelly L. Stephens, Clerk

APPENDIX “D”

EXHIBIT "A"

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

Daniel Luke Meier
Plaintiff

v.

Civil Action No. 22-cv-12154
Hon: Matthew F. Leitman
U.S. District Judge

Hon: David R. Grand
U.S. Magistrate Judge

Allstate Property and Casualty Insurance Company
Defendant

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**Transcript of Hearing Magistrate Judge David R. Grand January 13,
2023 9:00 a.m.**
(High Def. Rec., copy available upon request)

1. **Judge:** Hi Everybody good morning.
2. **Meier:** Good Morning
3. **Judge:** Hi who is on the line first Mr. Meier are you on the line?
4. **Meier:** Yes uh, Good Morning your Honor this is Daniel Luke Meier Plaintiff pro se
5. **Judge:** Okay, thank you for uh being here and uh who's on for defense?
6. **Allstate:** Abe Tabry for defendant Allstate
7. **Judge:** Okay Great, um thank you for being here um and so the purpose of this call is that we have received um the motion to compel the deposition. I know that um you since been responded to um but I just thought I scheduled this before the response came in and I had just thought that it would make sense for us to um have this informal call, this is not being recorded, I'm not making any decisions about anything. I just thought it would make sense for us to kind of check in together kind of get the lay of the land of what's going on in terms of the discovery process here and um you know try to resolve any open issues informally through this process. um so um have. You understand Mr. Meier you are just representing yourself correct? You do not have an attorney and you are not working with an attorney?
8. **Meier:** That's correct your Honor.
9. **Judge:** Okay, and um the court is um very understanding we work very often with litigants who um are representing themselves and understand the kind of challenges that creates um at the same time though, um the, the um, pro se litigants are required to follow all rules and the court can't um, can't um, help a pro se plaintiff navigate in any way just like the court can't help um, a party who's represented by counsel and um and uh so I know you're un

assuming not familiar with the rules like for instance um I got your reply uh to the defendant's response to your motion and in it you are seeking what you would title sanctions under rule 11 um but rule 11 um ah Number one I'm not commenting on whether the motion is substantively meritorious, but procedurally to file a rule 11 motion there's a whole set of or whole sequence of events that you have to follow um which I don't believe were followed and so I'm just pointing it out because as your going to go forward in this case I just want to make sure you understood that you are required to abide by all of the procedural kind of rules that apply in federal court litigation and I would just encourage you to before filing um documents and motions to do your absolute best that's to try to understand un the rules that apply and, and um follow them. So for instance rule 11 has kind of a road map as to what you have to do to proceed under that rule, and it requires um a formal advanced notice to the other side and an opportunity to cure and I don't know, things like that which I don't believe um ah ah I don't believe you've even done is that correct?

10. **Meier:** Well, what it was is that, It was in response to, they did a request for sanctions first. It was in response to their request for sanctions and my response basically to the facts that had been set forth and that they did not deny. Um I just wanted to state on the record your honor that I am a certified legal assistant, I'm not an attorney, but I do have some legal education so that should help a little bit. But uh the main thing is that they requested sanctions without reference to rule 11 at all and it wasn't even specifically laid out in their response so my response was kind of a response to their response but mine was a little more detailed. So.

11. **Judge:** Well, I understand and I can deal with that all of it um and um the point is I just wanted to point it out in particular because when you are, as I said when you are a pro se

litigant you have to follow all of the rules and so do represented parties of course um but as I said rule 11 has very specific requirements as to when you are trying to invoke that rule and so if you are going to cite the court to certain rules under which your asking the court to take action I'm just kind of encouraging you up front to um ah familiarize yourself with that rule and make sure that the whatever you're filing meets the requirements I just ah, I just ah want things going forward to be as streamlined as smooth as possible. And again, I recognize that's for all sides and that's part of the reason I'm holding this phone call is um not just for you but for the other side and to try to get both sides kinda on the same page moving forward okay?

12. **Meier:** Yeah, uh could you state specifically what was missed under rule 11 because when I stated it I tried to follow the rules specifically and we did exchange back and forth the

13. **Judge:** Did you provide the, the ,uh number one It's improper to file a motion as part of a response. Our local rules um um ah state that, our local rules state that any kind of motion has to be contained in a separate filing. Number two, uh any motion under rule 11 the rule states that you have to first provide a copy of the motion that you intend to file, the actual motion, to the other side 21 days prior to filing it with the court.

14. **Meier:** Okay.

15. **Judge:** I am assuming you did not do that?

16. **Meier:** No, I did not I'm sorry.

17. **Judge:** Right, so you don't have to apologize, I'm not upset about anything I'm not um ah, Im just, I'm Just kind of using it as an example because this is our first time I think talking and just trying to head off down the road any kind of um you know issues ah, where things get where our docket gets kind of bogged down um or um there are delays and just kind of

unnecessary filings because of um not adhering to the rules so again not upset just pointing it out so things you know kind of down the road in this case can move smoothly okay?

18. **Meier:** Okay I appreciate that, thank you your honor.

19. **Judge:** Sure, and as I said, I had scheduled this call before your um, before your um, reply.

Uh, uh, and before the uh Allstate's response even and I was hoping that we could have this informal conversation to really cut through the issues taking place right now and just move things forward and so as far as I can tell uh Allstate's position is that the discovery requests and request for deposition were premature because there had not been a rule 26 disclosure um, do you understand Mr. Meier what rule 26 disclosures are?

20. **Meier:** Yeah, did uh did you see my motion um my response to their request? Which was uh stated specifically a response to the rule 26 because this uh this case had proceeded previously um, it was a request that that be set aside because of the sheer volume and the fact that they already have all the evidence that they would be requesting. It would be, it would just be redundant um, they'd be asking for the same things they already have. They have already taken my deposition twice and I have never been allowed uh any discovery as far as depositions are concerned by them um, so yeah it was primarily because of the uh previous proceedings and that they have all the documents that they need and it would just be, and the rest of it is since this is a 42 U.S.C. 1983 this is not a relitigation of the Michigan complaint PIP and Negligence. Um it's you know it's basically a procedural analysis on what they did and how this all cam about. But umm, I was also wondering if we could possibly do some stipulations? Uh, like basically stipulate that a broken collar bone, torn shoulder ligaments, and closed head injury is in fact a serious impairment of bodily function under the law. And it's objectively....

21. **Judge:** Uh, lets just stick with first thing first is I'm trying to get discovery moving in this case to the extent discovery is necessary and you know I, just because there was a prior case um, that um or cases, ah um that doesn't necessarily mean that you can short circuit the rules and the requirements uh I also I take your point about okay if they already have everything that you would be um, uh providing them, uh I'm not one for um uh placing form over substance and uh, creating unnecessary paperwork and costs and that but there is still has to be some sort of formal rule 26 disclosure so that they know, that the other side knows, okay here's what we're dealing with, and so I think it would be okay if you want to...and I will be happy to hear the defense on this if you want to incorporate by reference say the only documents that I have to share are those that were produced by me or, or you in whatever case and you identify by name and case number and that so that they, so that they know what documents exist. Um uh in terms of the rule 26 also um asks you to identify the persons with knowledge. Maybe last week you got a phone call from somebody uh who hadn't previously been disclosed. They have a right to know who, at presently are the people with knowledge about um the claims in this case and so you have you as the plaintiff have the obligation to formally share that, as I said particularly with documents I'm not asking you um to just photo copy everything again and give it to them again if they already have it. They are entitled kind of a formal rule 26 disclosure so that they know that okay there's nothing that we're missing here, nothing no documents that were um, that we are missing, no, no people with knowledge to Mr. Meier's aware of who he's not identified to us. And that 's just your obligation as uh, uh litigant.

22. **Meier:** Okay.

23. **Judge:** So can you get them that type of document, well first let me ask counsel for Allstate.

Are you okay with a rule 26 disclosure along the lines that I just described?

24. **Allstate:** Your Honor I defer to the court, I, I, certainly can understand that um as you said

you don't want to necessarily place procedure over substance so if your Honor feels that,

that you know the most ...um our point about asking for the dis..(unintelligible).

25. **Judge:** You are just kind of breaking up, maybe you could just, I'm not sure if you have a bad connection or if you weren't talking in the phone?

26. **Allstate:** Uh your honor, can you hear me better now?

27. **Judge:** Yes, definitely.

28. **Allstate:** Okay perfect, so your honor what I was saying is, we would defer to your judgment about ah, um the, the, how the disclosures should go about, certainly my client would follow whatever you recommend in this case but our position about why we want these disclosures to begin with obviously because this matter is a completely separate litigation from you know prior litigation involving subject accident. Um but to that point also, although plaintiff is claiming a totally different claim here, you know from his complaint to other motions that have been already filed he continues to re-allege the same underlying basically PIP claims that he was making before bring up the bodily injury so it's kind of making it a little bit murky about what exactly he's claiming. You know is he claiming civil rights violations uh under the 5th 7th and 14th amendment, is he claiming PIP damages in addition to that? That is what his complaint seems to allege currently. Um, additionally, he made uh, he did ask for depositions, but in the last correspondence which was attached to that response to our response which again procedurally I don't think he's permitted to file a response to a response to a motion to compel because it's not the type of motion that would

allow a party to file a response to but, but, regardless of that fact. The party that he includes in his e-mail to me are not employees of Allstate, their defense attorney's that were involved in prior litigation that I would have no control over producing. So, I think these disclosures are very important to produce those because it would allow him the opportunity to name exactly who he wants to call as a witness, you know for himself, from our client but also specify what exactly he's claiming.

29. **Judge:** Right No, I completely agree, that's why I'm kind of starting with um, lets not put the cart before the horse. Let's first have Mr. Meier serve a proper rule 26 disclosure; um as I said um, I am not familiar with the prior record. Specifically, Mr. Meier in a case uh rule 26 disclosure would require each side to produce copies of the relevant documents and I um ,
to the extent those documents have already been produced and you can identify them um
ah, I'm not going to require you to you know re photo copy and send them again to the
extent that the other side already has them they already have been identified in prior
litigation uh as for those for instance you could say prior litigation PIP case and it sounds
like maybe there was more than one you could say and I'm assuming those documents
would have been base labeled and in some fashion so you can by reference say all
documents uh produced in the PIP case and then most preferable would be if you could
specifically identify them, you know base label number 1 through 1746 you know whatever
it is so that there's a very clear um set of documents that you are referring to um in addition
to any documents that were previously used and previously disclosed and that you have an
obligation to identify any new ones uh that you are gong to be um not just relying on, but
any that you're aware of so for instance you could have gotten a letter from one of your
treating physicians about your injuries. Uh, if you are or if you have such a letter um you

have to um disclose it and provide it. Um, uh e-mails other documents that you, I mean I don't know only you would know what you have. But, uh the defendant is entitled to for an initial disclosure to have those types of materials uh same with the witnesses um ah with um lets be clear it is not a witness list it's people that you are aware of with knowledge about the claims in the case. Um and so um only you know that right? Only you know um ah, who the people are with knowledge that you Mr. Meier are aware of the claims in the case um and so um only you know that right? Only you know um uh who the people are with knowledge that you Mr. Meier are aware of and you have to disclose those names and addresses and then the defense can decide okay we need to go then to this person or that person or they could decide okay we know who this person is and what this person will or won't say and so that's kind of like the first step is for you to provide the details that are required by rule 26 um so how much time, and if you look at the rule the rule specifies exactly what you have to provide you also have to provide a computation of your damages. So if there is a certain, if there are certain categories of damages you are seeking you have to identify those so you have to provide a calculation for how you are calculating those. Um again I can't tell you how to do that, uh but that's what's specified in the rules and it's your obligation as a litigant in this federal court case to comply with that. Um, so how much time uh would you need to be able to provide um a rule 26 disclosure to the other side?

30. **Meier:** Um, I would be fine with that your honor, um I would need to go through all the details that uh you're requesting. I 'm guessing, I 'm guessing uh, a couple weeks.

31. **Judge:** Okay.

32. **Meier:** That's uh....

33. **Judge:** Why don't we say 14 days?

34. **Meier:** Okay.

35. **Judge:** That will kind of just keep, keep things moving and um after you provide the um

initial disclosures to the defense then I, I do think it would be appropriate at that time if Mr.

Meier wishes to depose um ah certain Allstate employees. and any, and just so you know Mr.

Meier you can depose whoever you want in the case. You can only require Allstate to make

available people over whom they have control. Um and so I'm not sure who all the people

are that you asked them to produce it sounds like counsel um ah, indicated that some of the

people you've asked to depose are not people over whom Allstate has control. And so, for

any of those people over whom Allstate does not have control, they need to tell you that,

they need say okay you've asked to depose Mr. Smith but you know we don't control Mr.

Smith either because Mr. Smith wasn't an Allstate employee ever or Mr. Smith has left

Allstate and is retired, or you know I don't know whatever is working somewhere else. Um if

they tell you they don't have control over that person um then you need to be able to figure

out how to um serve a subpoena on that person and follow the proper procedures for a

subpoena. But, Allstate can only be compelled to produce people over whom they have

control.

36. **Meier:** Right.

37. **Judge:** So you need to uh, you know work with the attorney from Allstate okay here's who I

want to depose and then the attorney for Allstate needs to work with you and say okay um

the people you've identified, these are the people who we control and here are some

potential dates for those people and you kind of work together on a schedule for conducting

depositions. Um, from people that Allstate does not control, um and therefore cannot

produce, then it's up to you the litigant to figure out okay how do I get those people served?

So that you can depose them and uh you know that's kind of how the, the process works with respect to depositions.

38. **Meier:** Right, um the ones I've listed uh and I provided to them uh they were at that point in time during the previous proceedings they were employees of what's called, it's an umbrella company called Allstate Legal so they were actually employed by the company at that time. But, um I was also um wondering if because he seems to have uh an issue with lack of clarity with the complaint he's not understanding what is alleged in there. I was wondering if he need any clarification, because the complaint's quite detailed. I was wondering if there is something that he doesn't understand that's listed in the complaint if he could submit it to me and I could provide him with additional detail if he doesn't understand exactly how the

U.S.C 1983 fraud and depravation of civil rights applies or exactly what the difference is

between the prior cases and how those cases and how the proceedings and what occurred

in them how that equates to depravation of civil rights and due process rights like denial of

jury trial or denial of due process or things like that. Um, so I was wondering if, if there is

any. Oh also he um, a lot of times I will send an e-mail to them and they do not respond um

so is that going to get better now? Like after this, can I expect them to respond on a timely

basis. Because a lot of times I will sent them 3 or 4 e-mails which I sent on the attachments

and they just don't respond. Some of them are never responded to at all. So I want to help

move this along, but if they're not going to cooperate it will be very difficult for me to uh put

together all the information that they want or that they need and that I can provide for the

court to help facilitate and help everything moving forward.

39. **Judge:** We can hear from counsel you can go ahead.

40. **Allstate:** Sure uh so to address the first point the point he is raising about his complaint you know I would say the, the reason I'm mentioning you know the confusion the complaint is not because I need an explanation from plaintiff it's simply to point out the fact that it's a muddled complaint, I mean I want to make I guess this point clear too. In any kind of litigation the two parties are adversarial to each other to an extent so you know although we will cooperate and work within the confines of the court rules there are certain things that um you know plaintiff has the burden of proving right. I'm not going to do the plaintiff's homework for him so to speak so if plaintiff thinks that, that there's something you know that needs to be explained further in his complaint that is on him to figure that out. We're not going to walk him through it so I mean I feel there needs to be an understanding as well and the same applies to a litany of e-mails that seem somewhat to be fishing for certain information that we think are not relevant to any, any, anything that needs to be exchanged in discovery. You know I think there has to be kind of a boundary on certain communications and plaintiff may not understand that because he is not an attorney or has litigated additional cases in the past but I think there's kind of an expectation on both sides to work professionally and cooperate with each other but at the same time understand that this is an adversarial proceeding.

41. **Judge:** Right and I just say I have not seen the e-mails you are referring to Mr. Meier so I can't say, certainly what counsel has said is correct that you know there needs to be cooperation in terms of the scheduling um ah and things like that. So he's saying look I want to take Mr. Smith's deposition that I want to do it February 17th you know of course the expectation is within a reasonable period of time you would get a response from counsel that okay you know that dates okay or no that dates not good and things like that. Um but in

terms of what counsel has described of communications that are trying, that are asking about substantive information in the case or substantive claim um things of that nature I suppose he could say I'm sorry I can't engage with you on that type of issue. But, those types of communications aren't proper in terms of um uh you know the case because as counsel cites this is an adversarial process he has a client to represent and to do so zealously and um also part of the issue is Mr. Meier you are putting the cart before the horse in a lot of ways here and you know your other motion I intended to address um you are asking to strike their affirmative defenses and move for summary judgment which is uh extremely unusual for procedurally given that discovery hasn't yet started and um. [Again, I understand]

you're not an attorney but really um motions like this at this early stage where you know that they deny, they told you that they deny uh your allegations. Um, they don't need to provide a detailed explanation as to which specific aspect of your allegations are untrue. If you accuse them of conspiring with the judge or anyone else and they say no it's untrue that's their answer, they are denying it. If they, if you say they sent me a letter on, on such and such a date um, that says such and such and such and such and such and they deny having done that, that's it. [They deny it, they, they don't need to provide a extensive detail to corroborate their denial.] That's what the discovery process is for and so now I have this additional motion of where I have to now explain what a proper affirmative defense is and not in addition to that you're seeking summary judgment which is uh very premature and you know again part of this whole phone call was to try to get you know to get the parties kind of moving in the right direction. And as I said it all begins with you providing rule 26 disclosures and then the parties cooperating in the discovery process so you have to do that pursuant to the rules, the rules and procedures.

42. **Meier:** Yeah, can I address that your honor?

43. **Judge:** Yeah go ahead.

44. **Meier:** Um, It was set forth very specifically in the complaint uh there is very detailed allegations with specific quotes uh, from transcripts and everything else now. The generalized statement that oh well you know he's not an attorney and stuff like that I really um, like I said I am a certified legal assistant and um the reason that motion was set forth was because if something is not denied, *prima facie* complaint is what it is, very specific and you know if they don't understand what's on that complaint then they could request a more definite statement or something like that and I will be fully willing to do that. Um, but if they are not going to specifically deny something that was quoted very specifically and sets forth I already I already put it on these motions and everything. I know it is very common um for the you know, the direction to go oh you know that wasn't put together a certain way or that wasn't this or that because you know because that person's not an attorney. Well um, I would hope that we could stick with the facts and the evidence set forth. For example, just for one example. Exhibit 1 on both the motion to strike and the complaint um its obvious that, that if you take a look at that objectively manifested observable or perceivable condition that someone other than an injured person could recognize, now the whole core of what has proceeded in this case previously even if we're not going to go into the minute details and everything else. Where do they deny that that is a serious impairment of bodily function. Because if we are just going to go common sense straight forward is there a claim that was stated previously in any of the prior proceedings. Was that ever denied?

45. **Judge:** What allegation are you talking about Mr. Meier? What specific allegation re you talking about?

46. **Meier:** I'm just talking about the impairment of bodily function, which they denied.

47. **Judge:** What allegation? An answer to a complaint is an answer by paragraph by paragraph what paragraph are you referring to?

48. **Meier:** I am referring to the evidence that was set forth in exhibit 1 , Exhibit "A"

49. **Judge:** The picture of yourself?

50. **Meier:** Yes your Honor

51. **Judge:** Well I don't understand, that's not an allegation that's an attachment to the complaint. They have no obligation to speak about an attachment to the complaint. Their obligation is to um admit or deny um the allege the numbered allegations in the complaint and they've done that. They gave you an answer to every numbered enumerated allegation in the complaint paragraph by paragraph.

52. **Meier:** Yeah, if we look at paragraph two "see exhibit "A" plaintiff in the hospital severe permanent scarring to this day, fractured skull cognitive issues, broken collar bone, broken nose, stitches, seizures", none of that was denied.

53. **Judge:** Well.

54. **Meier:** And, and also that the defendant was 100% at fault, never stopped to see if the plaintiff was okay, never called the police for help.

55. **Judge:** Paragraph 2 was denied you're wrong

56. **Allstate:** It was denied because ..

57. **Judge:** It says in regards to paragraph 2 defendant denies the allegations contained therein for the reasons they are untrue. So their position is that the allegations contained in your paragraph 2 which by the way under I think its rule 8 of the federal rules of civil procedure say that you should provide a short plain statement of the case and its typically best done by

having kind of bite sized paragraph by paragraph allegations instead of you know multiple allegations in a single paragraph and multiple issues in that um uh but they are denying the truth of the allegation.

58. **Meier:** What, which

59. **Judge:** That's what discovery is for you can.

60. **Meier:** Which allegation though? Which Allegation? There are several.

61. **Judge:** Maybe they don't agree it patently obvious prima facie car accident PIP and

Negligence proceeding. I don't know, I mean they are denying maybe they don't think you

were quote run over by the defendant. First of all the defendant in this case is Allstate.

Where you run over by Allstate?

62. **Meier:** What we are doing is we are establishing why ...

63. **Judge:** No, no, no wait second wait a second we're really coming to the end here what we

are doing is following the rule that allow each side you and them to have the case decided

fairly and objectively under the rules and under the law and what is going to prevent that

from happening is failure to follow the rules and to uh file unnecessary papers that clog the

docket that slow down the case that um that lead to a lack of cooperation between the

parties and that's why I held this call. I didn't need to hold this call. I'm holding this call to

try to uh the best I can without uh you violating any rule because I don't represent you. I

can't help you kind of substantively. I can't help the other side substantively. I'm trying to

help both sides kind of work together so that the case moves forward expeditiously and ah

again it gets back to what I said about following the rules and it was perfectly appropriate

for them to deny an allegation that say plaintiff was run over by defendant when the

defendant was Allstate and you know that Allstate didn't run you over and so their denying that. And so um...

64. **Meier:** I'm sorry your honor but I wasn't..

65. **Judge:** This is not a situation where you get to say oh well they knew what I meant or um something else. They are responding to what you've written and you're responsible for what you've written.

66. **Meier:** That's correct, yes your honor I do realize that and I am not saying Allstate ran me over. I am quite clearly stating that..

67. **Judge:** No, no, no wait a second, you are stating that because Allstate is the defendant and you say the defendant ran me over. So you need to be um more clear and careful in whatever you are writing both to the court and to the other side and adhere to the rules.

That's what's going to enable this case to be resolved on the merits. And um so you need to understand that when you write something you're responsible for what you write.

68. **Meier:** Right, you know it is obvious we were talking about Amanda Megan Berger defendant on the previous proceeding. Obviously it wasn't Allstate that was driving her car and nearly killed the plaintiff. We were referring to the previous proceedings and who the driver was in the previous proceedings. Um and the...

69. **Judge:** You need to be more clear and careful in what you write because there are two parties to this case. Okay, you have a right to present your claim and have it fairly heard and resolved. Allstate has the right to have all the rules followed while it's being sued and being asked to pay a substantial sum of money and so it's not going to fly to say everyone knew what I meant. Okay, maybe they did know what you meant, but they have a right to respond to what you've actually written. And now so you've gone from not being clear and careful

enough in your complaint to Allstate answering what's written and now you filed a motion for summary judgment based on it. So, you can just see its getting off the rails because of how you have um approached your filings so I am encouraging you not penalizing you at all I'm not threatening making any threats or anything along those lines. I'm just encouraging you to be very careful and clear and um uh reflective on what your writing uh both to the court and to Allstate and to follow the rules. So um you know that 's just I think given your pro se status that's appropriate for me to point that out and that's all I can say. Moving forward I just hope that um that the filings that I see will be more appropriate and will be more in line with the rules.

70. **Meier:** Yes your honor um, that kind of refers back to what I was saying if they didn't understand something in the complaint and they required a more definite statement that's what I was asking if they were unclear. I mean obvious to anyone who is reading this that it refers right at the beginning to the previous defendant who was Amanda Megan Berger who was driving the car and there is nothing in here that would lead anybody to think that Allstate was driving the car or that there was any confusion because it had already been litigated previously what this is establishing is it is establishing there was a denial of due process rights and that they conspired to make sure that there wasn't a jury trial ad the evidence , the reason why there is a motion for summary disposition is because it is very detailed, it's a prima facie case, there's nothing that they needed, if they were unsure they could have filed a response and stated well we don't know who this person is this defendant is or whatever. It's obvious on the face prima facie case you can read it and all the other paragraphs refer to and point to who the defendants are now and who they were previously. Um, so there is no confusion.

71. **Judge:** I've got other, I did not intend for this call to be this lengthy. I told you I tried to do my best to explain to you the requirements for a pro se litigant um that to be successfully be able to navigate through the process and um that's all I can do. And so I will you know decide all motions fairly under the rules and under the law. Um and um I just hope you heed the courts advice because that's what will enable you the best opportunity to have a case move forward on the merits. Um so....

72. **Meier:** Your Honor, could I just say one thing? Can we stipulate something just on the record to make sure that uh there is no disagreement about just a few things?

73. **Judge:** Not on this record here today, um you can if you have facts that you wish to be uh stipulated to there's a mechanism in the federal rules of civil procedure for you to do that and that, that's between you and um the other side um but I'm not putting anyone on the spot right now to make any kind of substantive um you know agreements about the facts. That's what discovery is for, that's what the rules are for and you have every right to uh use all the rules to build your case just like the other side does.

74. **Meier:** Yeah, Um your Honor I wanted to ask you something very quickly. That they requested sanctions first. Was there anything wrong with them requesting sanctions from me? The way that they did it, they didn't even mention rule 11. They just said they wanted sanctions.

75. **Judge:** Well, I'm not granting any sanctions, there's um I haven't seen anything that is sanctionable. I think there is just a lack of um lack of familiarity with you know with the rules and that's why I'm trying to put you all on a good path forward um and I think I told you what needs to be to happen in terms of you providing the rule 26 disclosure, them providing deposition dates for the people they control, and you know the case moves

forward. So I, I, I, I'm um I'm going already I not going to make any rulings over this call I'm just trying to walk you through it defendant Allstate still does need to file a response to the motion uh that we discussed the motion to strike and the motion for summary judgment but I'm just trying to you know. I think they have another week or two to file that response and it will take me a little bit to issue some sort of written decision and I just don't in the interim for things to get off the rails.

76. **Meier:** Yeah, your Honor I understand that I do appreciate. I do have a judge that is going to be looking at this to before I file stuff. You know so there will be some analysis before it ever gets filed just so you know. You know I want to make sure I file everything.

77. **Judge:** Counsel anything else to add before we conclude?

78. **Allstate:** Uh, no your honor we'll go ahead and file a response to the motion to strike and the motion for EMSJ as well.

79. **Judge:** All right, thank you all very much everybody. Have a nice weekend.

80. **Meier:** Okay, thank you your honor you too.

81. **Allstate:** Thank you your honor you as well

APPENDIX “E”

EXHIBIT "B"

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

Daniel Luke Meier
Plaintiff

v.

Civil Action No. 22-cv-12154
Hon: Matthew F. Leitman
U.S. District Judge

Hon: David R. Grand
U.S. Magistrate Judge

Allstate Property and Casualty Insurance Company
Defendant

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Transcript of Zoom Hearing Magistrate Judge David R. Grand
March 23, 2023 1:00 p.m.
(High Def. Rec. copy available upon request)

1. **Judge:** I just got a note from my law clerk, it says, it looks like someone else is in the waiting room right now.
2. **Clerk:** There are two people, but I didn't know I didn't want to let them in and on the docket because I wasn't sure if they were from Allstate. Uh but I see someone has just, maybe Mrs. Martin, hold on a second.
3. **Judge:** I'm not sure who their attorney is?
4. **Allstate:** Hi I'm Olivia Martin on behalf of defendant Allstate
5. **Judge:** Okay, All right thank you we have Mr. Meier if you could turn on your video sir please.
6. **Meier:** Um.
7. **Clerk:** Let me start the recording in open court
8. **Judge:** Sure.
9. **System:** Recording in progress
10. **Clerk:** United States District Court for the Eastern District of Michigan is now in session the Honorable David R. Grand chief Magistrate Judge presiding. Calling case # 22-12154 Daniel Luke Meier verses Allstate Property and Casualty Insurance Company. Parties, please place your appearances on the record.
11. **Meier:** Yes, My name is Daniel Luke Meier Plaintiff Pro se your Honor
12. **Judge:** and Mr. Meier are you able to turn your video on?
13. **Meier:** uh, I don't know um..
14. **Judge:** There should be a button that you can push that has a little camera.
15. **Meier:** Oh, I think I saw it, okay, there we go.

16. **Judge:** Okay thank you. All right and Mrs. Martin you can put your appearance on the record.

17. **Allstate:** Olivia Martin on Behalf of defendant Allstate (P86287)

18. **Judge:** All right thank you. So we're here in this case following my issuance of an order that explained some significant shortcomings that I perceive in the claims and my attempt to try to get this case on um, moving forward in uh productive and efficient manner Mr. Meier had requested that I hold a conference to uh for that purpose um and so I granted that request to get us together to talk. Uh, before we go any further though uh I need to make very clear to you Mr. Meier I had indicated in the order that the court was [not going to tolerate abusive language um or harassing language or that type of conduct in a proceeding. You have every right to zealously advocate for your legal positions in this case but you don't have a right to be abusive towards uh counsel or towards the court certainly or towards witnesses. And I had um I had indicated that in the order and warned you that if you were to continue engaging in abusive conduct that the uh court could even uh dismiss your case. And um, that was on page uh 16 of the opinion um and it [referenced your having previously referred to Allstate filings as quote ridiculous trash or ridiculous baseless garbage] and again I wrote that type of language will not be tolerated and warned you not engage in that conduct uh, you unfortunately responded by filing uh an objection which was fine, you have every right to file an objection to my rulings in this case and argue that my rulings were incorrect. Um, but instead of limiting your objection to that you went on to engage in an anti-Semitic diatribe uh where you accuse, you noted my religion, you noted your religion, which you had raised in your complaint as part of your claim and you state quote so what we have in this instant case is religious persecution of a Christian Plaintiff by a Jewish judge just as his

religion teaches and that explains a great deal of what is happening here David R. Grand's order is filled with baseless lies and threats in an attempt to deceive and circumvent the plaintiff's right under the law. It's truly shameful how Magistrate Judge David R. Grand tries to misrepresent the law to dupe people out of their rights under color of law in a near death incident. And then you go on to cite Zohor 1 16 (a) Jews must always try to deceive Christians and Baba Comma 1 13(a) Jews may use lies to circumvent a Gentile. Uh, those types of comments are exactly the type of abusive, inappropriate language and that have no place in a court of law and it will not be tolerated. So, um frankly your having done so in response to my warning to you would be grounds for uh the court to dismiss your case at this juncture right now. Um I um not going to do that at this stage because um I wanted I said we would hold this status conference and I'm sticking to that and I'm just giving you a warning that's clear as possible terms as I can um that that type of continued conduct by you will result in a recommendation by me that your case be dismissed. And I want to point you to some case law that says that I can do that um in case White v. Williams (423 app. 645 7th cir.) upheld the dismissal of a case for a uh parties abusive um conduct uh similar to what I just described by you and it say quote dismissal may be appropriate when a party has shown a lack of respect for the court or for the proceedings and pertinent to white's behavior in litigation the sanction of dismissal has been upheld where a plaintiff challenged a district court's authority or level vitriol and frivolous accusations against the court or opposing counsel. Um and so you can go and you can read that case and see what it says um and again I am just giving you a very clear warning that similar types of conduct by you and um similar types of uh behavior by you and uh harassing and abusive language and vitriolic

language challenging different religions and things like that that have nothing whatsoever to do with the merits of this case uh will not be tolerated. So do you understand that?

19. **Meier:** well, yeah the fact is that there have been some topics that have been brought up and I am a pastor and I was just alluding to historical consistencies. I have a lot of Jewish friends so, that's not an issue.

20. **Judge:** I'm not getting into I didn't ask you to explain why you wrote what you did um and um I asked you to recognize my warning to you that if you do this again. I'm going to recommend that your case be dismissed. Do you understand that?

21. **Meier:** Yes, but your context is kind of vague because the first I complained about something which was their filing it wasn't a personal attack on them as a person, it was an attack on their filing because ~~that filing there was no subpoena and it was a motion to quash something that does not exist.~~ So that makes it frivolous, if something does not exist and they are asking for it to be quashed it's ridiculous it makes no sense, it's illogical. That was the gist of the context for the first issue that happened. Um the second one is just in context there have been several things that have been brought up that I did not state in my response that had been put in there and you can see it in my objection. I mean so it's in my objection everything that I had to say about that. I do understand what you are saying your Honor and if something is to that effect just, just you know I didn't mean it in anyway to harm anybody it's just an observance of something that seems apparent. If it's not true that's fantastic either way, except for the fact is they filed a motion to quash something that does not even exist I mean that's where it all came from the first one.

22. **Judge:** well, as I said um, I've been as clear as I can be about the warning in terms of similar abusive language and vitriol and ad hominem attacks things like that as I said are going to

result in a recommendation by me that your case be dismissed. So I've been as clear as I can be on that um and uh in terms of the case and thins case moving forward um I have explained I though in great detail why issues such as Allstate's decision to file the waiver in the United States Supreme Court where they elected not to um, where they [elected not to] [um challenge the petition or not to file an opposition to the petition for cert why they their decision to do so has no effect whatsoever on the merits of the case] and does not constitute an admission as to any facts uh in uh underlying the case um or an admission of any of the legal principles that were um being uh addressed in the case. Their filing of that waiver uh had one and only one impact which was to say they were not going to file an opposition to the petition for cert period. And um, uh I just want to again clarify and warn you that to the extent you insist on asserting their um waiver as the basis for uh admissions as you've done um, that is not going to get you anywhere.

23. **Meier:** Okay you honor.

24. **Judge:** I just wanted to be clear about that.

25. **Meier:** Can I make a comment?

26. **Judge:** Sure.

27. **Meier:** Um, can we define, can we stipulate on the definition of merits right now?

28. **Judge:** Well, I uh I the merits meaning the uh, uh the underlying legal determinations of uh [your case. And uh the um I don't know the legal rulings in the case I would say. Their filing that waiver had no you're trying t use their filing of that waiver as some sort of admission as to what took place below and that [your version of the events is the correct version of the events and I'm telling you that their filing of that waiver has nothing whatsoever to do with that.] It has no impact on whether you've proven anything. And, as far as I can tell, you are

basing virtually your entire case on an assumption that their waiver is constituting an admission.

29. **Meier:** Okay..

30. **Judge:** Is that correct?

31. **Meier:** Your Honor uh, [The merits correct me if I am wrong, but that is the application of the facts and the law to the circumstances right? In the complaint?]

32. **Judge:** Well, I was talking about the underlying merits in terms of the reason that we're here

33. **Meier:** I mean the.

34. **Judge:** You are saying that certain things happened uh in the case below state court case and you are saying in this case that Allstate has admitted those things happened. And I believe that you are saying that the proof that Allstate has admitted those things happened is because they filed the waiver. And I'm telling you that is legally incorrect, their having filed the waiver is not an admission of anything. And so the extent to which you are basing your claim on their having filed that waiver frankly that has no merit whatsoever.

35. **Meier:** Okay, can I respond?

36. **Judge:** Sure.

37. **Meier:** Um the Supreme court rule 15 states a brief in opposition is to address [any perceived misstatement of facts or law in the petition] and that counsel are admonished that they have an obligation to the court to point out in the brief in opposition and no later any perceived misstatement made in the petition any objection to consideration to question presented based on what occurred in the proceedings below [may be deemed waived unless called to the court's attention in the brief in opposition.] So you're saying, okay so the Supreme Court is saying if you don't file a brief in opposition that denied what occurred

below including the facts and the law we are not going to consider it because you did not, its very similar to failure to deny when you first file a complaint. If someone states a claim on which relief can be granted which is similar to what the Supreme Court's saying here. This guys saying hey this guy is saying this is the relief that he wants and if you don't deny it we're not going to hear it anymore. So.

38. **Judge:** That's not what they're saying. Their saying we are not going to hear it in connection with the petition for cert.

39. **Meier:** Right.

40. **Judge:** As I explained in our order once a petitioner gets over the petition for cert then you start again and the responding party is certainly not precluded from uh contesting the validity of the petitioner's argument. And so again I explained to you why you um interpretation of that rule 15 is incorrect.

41. **Meier:** Okay, so you're saying that if they do not file a response to the petition for writ, and um as the rule 15 says here and not later any perceived misstatement they will be deemed waived. What is waived then? What are they waiving?

42. **Judge:** Their waiving their right to contest the application an petition for cert, they're not waiving their right to later contest the merits of the issue which is why there is an additional rule called merit briefing uh that relates to the merits briefing and in which a uh respondent to the case whether that respondent uh, uh challenged the petition or not may file a response. And so I understand your interpretation. I recognize that was your interpretation and I've explained to you that that interpretation is incorrect and is not going to I am not going to allow this case to take up our if that is what this case is about and I'm telling you you're wrong and your telling me no and that is what your case is about we don't need to go

any further because that is an your basing your entire case on an incorrect application of the law.

43. **Meier:** Well, actually it is about a lot more than that its about like this (holding up crash picture) which is me after the accident and now I don't know if you can see it or not but can you see that scar that is on my forehead that is still there? A couple big scars.

44. **Judge:** I saw the pictures and recognized in the opinion that there was an accident and I recognized in the opinion that you were seriously injured. And I' sorry that you uh went through that but that has nothing to do with this case and your claims in this case. You had a right to pursue that case about who caused your accident and who was responsible for the accident. You had a right to pursue that case in state court and you did and for reasons that were explained to you by the trial court and the court of appeals you did not prevail. And, you can believe all those decisions were wrong and that's fine. Um but that is no longer what this case is about. This case is about your assertions that that outcome was achieved by Allstate through fraud and conspiracy and violation of your civil rights and that is a claim that if you are to prove it you have to prove it with facts and evidence not with incorrect legal assertions not with conclusionary assertions and not with um, not with um speculation. And that's why I wanted to hold this status conference to make sure you understood the difference. Uh when you say that your case is founded on the Allstates admission if you are referring to their having filed the waiver in the Supreme Court, that gets you nothing. That is uh, uh ,uh completely incorrect legally.

45. **Meier:** Well, as I stated in the response uh, or in the objection to the response that is just one facet of it um we have documented uh transcript of them conspiring with the judge to deny the default. Now the default was entered as a matter of law. In order for the default to

be entered you have to prove there was a default and they were properly served. That was done, the default was entered and I even attached the discussion that.

46. **Judge:** That's not true, you did not prove that they were properly served. You alleged that they were properly served. You presented evidence that you believe would show that they were properly served and later when the court actually analyzed the issue it determined that they had not been properly served and the Michigan court of appeals upheld that ruling finding that you had not properly served Allstate and therefore the um therefore it was appropriate for the court not to enter a default judgment. So as I said, I did not intend, this is not a trial here today. I'm not intending to make any further rulings at this point. I'm trying to assist in if this case is going to go forward in making sure that it can go forward efficiently and productively.

47. **Meier:** Can I make a comment please?

48. **Judge:** Okay.

49. **Meier:** Um, the default okay uh the whole gist of the fraud for the default is that there is rules and procedures you have to follow to set aside a default. Now, they admitted on transcript in the court record there was no motion to set aside or meritorious defense affidavit of facts showing that to have it set aside. Therefore, under the law, since there is a requirement, a procedure in order to get it set aside that requirement under law was not followed. It was not legally set aside. Somebody cannot just say well we find that you know that they were not properly served. They signed for service, the law firm signed for service and accepted service on behalf of Allstate it says Allstate and the attorney. Um,

50. **Judge:** But that issue, that issue Mr. Meier has been litigated and you unfortunately for you, you did not prevail.

51. **Meier:** That's the fraud.

52. **Judge:** The fact that a ruling was made against you does not evidence fraud that evidences a ruling was made against you. And you had every right to appeal it and you did and the Michigan Court of Appeals as I quoted in my order ruled against you on that issue. And so again um these. I understand you're not an attorney and um and.

53. **Meier:** I am a certified legal assistant just so you know your honor.

54. **Judge:** Okay, then you should understand principles like res judicata where a uh an Issue is ruled against you. You have a right to pursue and once its been uh determined and your appeal rights are exhausted that's it. That issue is resolved.

55. **Meier:** Not if it was through fraud upon the court.

56. **Judge:** What fraud, what fraud is there?

57. **Meier:** The fraud is trying to set aside a default without the due process that's required to set it aside legally. You can't just say well, thanks for asking for it to be set aside, yeah I agree with you let's just set it aside. Because they didn't file a meritorious defense and they didn't file any affidavit of facts if that is missing that is fraud upon the court. End of case that is fraud upon the court and it was never set aside legally.

58. **Judge:** All right now at this point we're just gong round and round as I 've said I've tried my best to explain to you what the difference between uh legal conclusions and uh speculative assertions and evidence. And uh again, the request in open court, even if you feel it's uh without basis a request in open court by an attorney to a judge is uh is uh almost the antithesis of fraud because it's out in the open and you have a right to object and to argue that their wrong and so fraud is something that's hidden and secreted and done off the record you know that type of conduct.

59. **Meier:** Your honor that's..

60. **Judge:** I want to clarify uh that what you've shown so far I do not see as in any way having shown any facts whatsoever to support a finding of fraud.

61. **Meier:** Yes your Honor that was ex parte apparently because it wasn't in court where they requested it, it was just a Judge saying you requested it. I didn't hear them request anything so I wasn't even made aware of that communication. So it is exactly what you had just said.

62. **Judge:** So how did you know about that then if you weren't there?

63. **Meier:** Because she said you requested it. It's on the record. And I didn't hear any request.
That's the fraud. That's ex parte communication I was not a party to.

64. **Judge:** Well, I'm not sure and that's that's why I did not um that's why this case is ongoing as I said you have every right to attempt to prove your case factually and I just wanted to make that we are all on the same page as to what constitutes fact and what constitutes speculation and conclusionary allegations. But um, but let me give Mrs. Martin and opportunity um if there's anything you wanted to say at this point uh that might be helpful in um moving the case forward productively.

65. **Allstate:** Yeah, thank you your honor, I don't necessarily have a lot to add aside from just agreeing with what your honor has said so far. Um, although I will note that in Mr. Meier's 2016 complaint he did also allege fraud upon the court in that case. Um and that one was again dismissed and the dismissal was as you noted affirmed on appeal. So I mean I would just note based on your conversation of res judicata that that issue has already also been litigated as it applies to Meier 1.

66. **Judge:** I see, okay.

67. **Meier:** okay if something is litigated and it's litigated through fraud obviously there's an accident, I had serious impairment of bodily function, nobody denied that, so if something proceeded and I did not get an award and also of course there was the evaluation which is on the facts and the law and those two were in my favor, and we just looked at the picture and the picture serious impairment of bodily function which is objectively manifested when the impairment is observable or perceivable from actual symptoms or conditions from someone other than the injured person which is MCL 500. 3135 (a) um we just looked at that picture so if taken as true my complaint that I was denied my due process rights because I have in fact the injuries that state a claim on which relief can be granted but I was not granted that relief then fraud occurred. Because that is the law, the law says I have a right.

68. **Judge:** You lost your case; you case was thrown out because the court found you did not comply with your discovery obligations. And so

69. **Meier:** Someone in default.

70. **Judge:** That's why you lost. Not because of fraud.

71. **Meier:** Your Honor I'm sorry but that's a fraud also because people who default do not get discovery. He defaulted as a matter of law, it was never set aside legally, he had no right to any discovery.

72. **Judge:** All right, as I said we're I'm not going to go round and round any further I tried my best to explain to you what the requirements are for your case to proceed uh and um I've described for you the different between facts and evidence and conclusionary assertions and legal conclusions uh particularly ones that are incorrect on the law and I've been very

clear that uh to the extent your case is grounded on incorrect legal conclusions and incorrect legal analysis.

73. **Meier:** Which ones?

74. **Judge:** The ones that I have explained and discussed today. Um that your case will not be able to survive so I would just encourage you to focus on the facts and evidence if there is any and that is relevant to your claim and I will you know be happy to um see the case move forward productively and it will it will you know be decided based on the merits as their presented. What you could do to um avoid having the case decided on the merits is to engage in the kind of conduct that I discussed with you at the outset of this proceeding today. You know it's going to be up to you if you want your case to be decided on the merits um then you need to abide by the rules of the court and the instructions and orders um and um that will be up to you.

75. **Meier:** Yeah well um, you know in the January 13th hearing uh Allstate filed a request for sanctions and I did too right after they did, but I was reprimanded for mine but they were not reprimanded for theirs. Um, I'm just concerned that there is a bias going on here I would like to request of you on the record to recuse yourself.

76. **Judge:** All right thank you that request has been made, you made it in the objection. Um there's no basis for me to recuse myself. I have made all my rulings based on the law and the facts and i've frankly bent over backwards to try to explain to you as a pro se litigant um how cases work both procedurally and substantively and as I said it's going to be your choice as to whether uh you um engage in the litigation process in a way that allows your case to be decided on the merits or results in some other sort of adjudication. So uh thank

you all for um your time today for being here and that will conclude our hearing we'll see how things go in the case. All right, take care.

77. **Allstate:** Thank you your honor

78. **Meier:** Thank you your honor