

**United States District Court
Western District of Michigan (Southern Division (1))
CIVIL DOCKET FOR CASE #: 1:20-cv-00414-PLM-PJG**

Midwest Institute of Health, PLLC et al v. Whitmer et al

Assigned to: District Judge Paul L. Maloney
Referred to: Magistrate Judge Phillip J. Green (events as ordered)

Case in other court: Sixth Circuit, 20-01611
Sixth Circuit, 20-01650

Cause: 28:1331 Federal Question: Other Civil Rights

Date Filed: 05/12/2020

Jury Demand: None

Nature of Suit: 950 Constitutional - State Statute

Jurisdiction: Federal Question

plaintiff

**Midwest Institute of Health,
PLLC**
doing business as
Grand Health Partners

represented by **Amy Elizabeth Murphy**
Miller Johnson PLC (Grand Rapids)
45 Ottawa SW, Ste. 1100
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ATTORNEY TO BE NOTICED

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ATTORNEY TO BE NOTICED

plaintiff

Wellston Medical Center, PLLC

represented by **Amy Elizabeth Murphy**
(See above for address)
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ATTORNEY TO BE NOTICED

James Richard Peterson
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ATTORNEY TO BE NOTICED

plaintiff

Primary Health Services, PC

represented by **Amy Elizabeth Murphy**
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ATTORNEY TO BE NOTICED

Stephen James van Stempvoort
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James Richard Peterson
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ATTORNEY TO BE NOTICED

plaintiff

Jeffery Gulick

represented by **Amy Elizabeth Murphy**
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ATTORNEY TO BE NOTICED

Stephen James van Stempvoort
(See above for address)
ATTORNEY TO BE NOTICED

James Richard Peterson
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ATTORNEY TO BE NOTICED

defendant

Gretchen Whitmer
*in her official capacity as Governor
of the State of Michigan*

represented by **Christopher M. Allen**
MI Dept Attorney General (Solicitor
General)
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ATTORNEY TO BE NOTICED

defendant

Dana Nessel
*in her official capacity as Attorney
General of the State of Michigan*

represented by **Ann Maurine Sherman**
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ATTORNEY TO BE NOTICED

defendant

Robert Gordon
*in his official capacity as Director of
the Michigan Department of Health
and Human Services*

represented by **Christopher M. Allen**
(See above for address)
ATTORNEY TO BE NOTICED

Darrin F. Fowler
(See above for address)
ATTORNEY TO BE NOTICED

John G. Fedynsky
(See above for address)
ATTORNEY TO BE NOTICED

Joseph T. Froehlich
(See above for address)
ATTORNEY TO BE NOTICED

Joshua O. Booth
(See above for address)
ATTORNEY TO BE NOTICED

| Date Filed | # | Docket Text |
|-------------------|-------------------|--|
| 05/12/2020 | 1 | COMPLAINT against Robert Gordon, Dana Nessel, Gretchen Whitmer filed by Midwest Institute of Health, PLLC d/b/a Grand Health Partners, Jeffery Gulick, Primary Health Services, PC, Wellston Medical Center, PLLC (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10, # 11 Exhibit 11, # 12 Exhibit 12, # 13 Exhibit 13, # 14 Exhibit 14, # 15 Exhibit 15, # 16 Exhibit 16, # 17 Exhibit 17, # 18 Exhibit 18, # 19 Exhibit 19) (Peterson, James) (Entered: 05/12/2020) |
| 05/12/2020 | | FILING FEE PAID re 1 by plaintiffs Jeffery Gulick, Midwest Institute of Health, PLLC d/b/a Grand Health Partners, Primary Health Services, PC, Wellston Medical Center, PLLC in the amount of \$400, receipt number AMIWDC-5234817 (Peterson, James) (Entered: 05/12/2020) |
| 05/13/2020 | | (NON-DOCUMENT) ATTORNEY APPEARANCE of Amy Elizabeth Murphy on behalf of plaintiffs Jeffery Gulick, Midwest Institute of Health, PLLC, Primary Health Services, PC, Wellston Medical Center, PLLC (Murphy, Amy) (Entered: 05/13/2020) |
| 05/13/2020 | | (NON-DOCUMENT) ATTORNEY APPEARANCE of Stephen James van Stempvoort on behalf of plaintiffs Jeffery Gulick, Midwest Institute of Health, PLLC, Primary Health Services, PC, Wellston Medical Center, PLLC (van Stempvoort, Stephen) (Entered: 05/13/2020) |
| 05/13/2020 | 2 | PROPOSED SUMMONS to be issued re 1 (Peterson, James) (Entered: 05/13/2020) |
| 05/13/2020 | 3 | NOTICE that this case has been assigned Paul L. Maloney ; with NOTICE OF DEFICIENCY re corporate disclosure statement (clw) (Entered: 05/13/2020) |
| 05/13/2020 | 4 | SUMMONS ISSUED as to defendants Robert Gordon, Dana Nessel, Gretchen Whitmer (clw) (Entered: 05/13/2020) |

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| 05/14/2020 | 5 | CORPORATE DISCLOSURE STATEMENT by Midwest Institute of Health, PLLC (Peterson, James) (Entered: 05/14/2020) |
| 05/14/2020 | 6 | CORPORATE DISCLOSURE STATEMENT by Wellston Medical Center, PLLC (Peterson, James) (Entered: 05/14/2020) |
| 05/14/2020 | 7 | CORPORATE DISCLOSURE STATEMENT by Primary Health Services, PC (Peterson, James) (Entered: 05/14/2020) |
| 05/15/2020 | 8 | PROOF OF SERVICE by plaintiffs Jeffery Gulick, Midwest Institute of Health, PLLC, Primary Health Services, PC, Wellston Medical Center, PLLC re Summons Issued 4 , complaint, 1 (Peterson, James) (Entered: 05/15/2020) |
| 05/18/2020 | 9 | MOTION for preliminary injunction by plaintiffs Jeffery Gulick, Midwest Institute of Health, PLLC, Primary Health Services, PC, Wellston Medical Center, PLLC; (Peterson, James) (Entered: 05/18/2020) |
| 05/18/2020 | 10 | BRIEF in support of MOTION for preliminary injunction 9 filed by Jeffery Gulick, Midwest Institute of Health, PLLC, Primary Health Services, PC, Wellston Medical Center, PLLC (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10, # 11 Exhibit 11, # 12 Exhibit 12, # 13 Exhibit 13, # 14 Exhibit 14, # 15 Exhibit 15, # 16 Exhibit 16, # 17 Exhibit 17, # 18 Exhibit 18) (Peterson, James) (Entered: 05/18/2020) |
| 05/18/2020 | 11 | CERTIFICATE regarding compliance with LCivR 7.1(d) re MOTION for preliminary injunction 9 filed by Jeffery Gulick, Midwest Institute of Health, PLLC, Primary Health Services, PC, Wellston Medical Center, PLLC (Peterson, James) (Entered: 05/18/2020) |
| 05/19/2020 | 12 | PROOF OF SERVICE by plaintiffs Jeffery Gulick, Midwest Institute of Health, PLLC, Primary Health Services, PC, Wellston Medical Center, PLLC re MOTION for preliminary injunction 9 , Brief in Support of a Motion, 10 , Certificate Regarding Motion Concurrence, 11 (Peterson, James) (Entered: 05/19/2020) |
| 05/19/2020 | | (NON-DOCUMENT) ATTORNEY APPEARANCE of John G. Fedynsky on behalf of defendants Robert Gordon, Gretchen Whitmer (Fedynsky, John) (Entered: 05/19/2020) |
| 05/19/2020 | | (NON-DOCUMENT) ATTORNEY APPEARANCE of Joseph T. Froehlich on behalf of defendants Robert Gordon, Gretchen Whitmer (Froehlich, Joseph) (Entered: 05/19/2020) |

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| 05/19/2020 | | (NON-DOCUMENT) ATTORNEY APPEARANCE of Joshua O. Booth on behalf of defendants Robert Gordon, Gretchen Whitmer (Booth, Joshua) (Entered: 05/19/2020) |
| 05/19/2020 | | (NON-DOCUMENT) ATTORNEY APPEARANCE of Christopher M. Allen on behalf of defendants Robert Gordon, Gretchen Whitmer (Allen, Christopher) (Entered: 05/19/2020) |
| 05/19/2020 | | (NON-DOCUMENT) ATTORNEY APPEARANCE of Ann Maurine Sherman on behalf of defendant Dana Nessel (Sherman, Ann) (Entered: 05/19/2020) |
| 05/19/2020 | | (NON-DOCUMENT) ATTORNEY APPEARANCE of Rebecca Ashley Berels on behalf of defendant Dana Nessel (Berels, Rebecca) (Entered: 05/19/2020) |
| 05/19/2020 | 13 | ORDER regarding response to Motion for Preliminary Injunction 9 responses due by 3:00 p.m. on 5/22/2020; hearing on motion scheduled for 5/28/2020 at 9:00 a.m., 174 Federal Building, Kalamazoo, Michigan; signed by District Judge Paul L. Maloney (Judge Paul L. Maloney, acr) (Entered: 05/19/2020) |
| 05/22/2020 | 14 | NOTICE of Screening Device by defendant Dana Nessel (Sherman, Ann) (Entered: 05/22/2020) |
| 05/22/2020 | 15 | RESPONSE TO MOTION for preliminary injunction 9 filed by Dana Nessel (Attachments: # 1 Index, # 2 Exhibit 1, # 3 Exhibit 2) (Sherman, Ann) (Entered: 05/22/2020) |
| 05/22/2020 | 16 | CERTIFICATE of compliance re word count for Response to Motion 15 filed by Dana Nessel (Sherman, Ann) (Entered: 05/22/2020) |
| 05/22/2020 | | (NON-DOCUMENT) ATTORNEY APPEARANCE of Darrin F. Fowler on behalf of defendants Robert Gordon, Gretchen Whitmer (Fowler, Darrin) (Entered: 05/22/2020) |
| 05/22/2020 | 17 | MOTION for leave to file excess pages / <i>Exceed Word Limit Under LR 7.1(c)</i> by defendants Robert Gordon, Gretchen Whitmer; (Attachments: # 1 Exhibit 1 to Defendants' Whitmer and Gordon's Motion to Exceed Word Limit, # 2 Defendants Whitmer and Gordon's Response to Plaintiff's Motion for Prelim. Injunction, # 3 Index of Exhibits, # 4 Exhibit A, # 5 Exhibit B, # 6 Exhibit C, # 7 Exhibit D, # 8 Exhibit E, # 9 Exhibit F, # 10 Exhibit G, # 11 Exhibit H, # 12 Exhibit I, # 13 Exhibit J, # 14 Exhibit K, # 15 Exhibit L, # 16 Exhibit M, # 17 Exhibit N) (Fedynsky, John) Modified text on 5/26/2020 (clw). (Entered: 05/22/2020) |

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| 05/22/2020 | 18 | ORDER regarding response to Motion for Preliminary Injunction 9 ; replies due by 5/26/2020; signed by District Judge Paul L. Maloney (Judge Paul L. Maloney, acr) (Entered: 05/22/2020) |
| 05/22/2020 | 19 | ORDER granting 17 motion for leave to file excess pages ; signed by District Judge Paul L. Maloney (Judge Paul L. Maloney, cmc) (Entered: 05/22/2020) |
| 05/22/2020 | 20 | RESPONSE TO MOTION for preliminary injunction 9 filed by Robert Gordon, Gretchen Whitmer (Attachments: # 1 Index of Exhibits, # 2 Exhibit A, # 3 Exhibit B, # 4 Exhibit C, # 5 Exhibit D, # 6 Exhibit E, # 7 Exhibit F, # 8 Exhibit G, # 9 Exhibit H, # 10 Exhibit I, # 11 Exhibit J, # 12 Exhibit K, # 13 Exhibit L, # 14 Exhibit M, # 15 Exhibit N) (clw) (Entered: 05/26/2020) |
| 05/26/2020 | 21 | REPLY to response to motion 9 filed by Jeffery Gulick, Midwest Institute of Health, PLLC, Primary Health Services, PC, Wellston Medical Center, PLLC (Attachments: # 1 Exhibit 1 - EO 2020-96, # 2 Exhibit 2 - EO 2020-97, # 3 Exhibit 3 - EO 2020-99) (Peterson, James) (Entered: 05/26/2020) |
| 05/27/2020 | 22 | ORDER dismissing without prejudice 9 motion for preliminary injunction; signed by District Judge Paul L. Maloney (Judge Paul L. Maloney, cmc) (Entered: 05/27/2020) |
| 05/28/2020 | 23 | NOTICE of hearing regarding certification of issues to Michigan Supreme Court set for 6/10/2020 at 01:30 PM at 174 Federal Building, Kalamazoo, MI before District Judge Paul L. Maloney; (Judge Paul L. Maloney, cmc) (Entered: 05/28/2020) |
| 06/02/2020 | 24 | MOTION for leave to file excess pages <i>Exceed Word Limit</i> by defendants Robert Gordon, Gretchen Whitmer; (Attachments: # 1 Exhibit 1: Defs. Gordon and Whitmer's Motion to Dismiss, # 2 Defs. Gordon and Whitmer's Brief in Support of Its Motion to Dismiss, # 3 Index of Exhibits, # 4 Exhibit A: Opinion and Order Denying Plaintiffs Motion for a Preliminary Injunction, Martinko, et. al. v. Governor Whitmer, et. al., Michigan Court of Claims Case No. 20-62-MM, # 5 Exhibit B: Modes of transmission of virus causing COVID-19, World Health Organization, # 6 Exhibit C: Social Distancing, Quarantine, and Isolation, Centers for Disease Control, # 7 Exhibit D: Flattening the Coronavirus Curve (March 27, 2020), New York Times, # 8 Exhibit E: E.O. No.2020-4, # 9 Exhibit F: E.O. No. 2020-5, # 10 Exhibit G: E.O. No. 2020-9, # 11 Exhibit H: E.O. No. 2020-11, # 12 Exhibit I: E.O. No. 2020-17, # 13 Exhibit J: E.O. No. 2020-96, # 14 Exhibit K: E.O. No. 2020-21, # 15 Exhibit L: Opinion and Order of the Court issued May 21, 2020, Michigan House and Senate v. Gov. Whitmer, Michigan Court of Claims Case No. 20-79-MZ, # 16 Exhibit |

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| | | M: Opinion and Order of the Court issued May 18, 2019, Michigan United for Liberty v. Gov. Whitmer, Michigan Court of Claims Case No. 20-61-MZ, # 17 Exhibit N: Governor Gretchen Whitmers Emergency Bypass Application for Leave to Appeal and Brief, # 18 Exhibit O: Summary Order released May 29, 2020, South Bay United Pentecostal Church, et al. v. Gavin Newsom, Governor of California, 509 U.S. ____ (2020)) (Fedynsky, John) Modified text on 6/4/2020 (clw). (Entered: 06/02/2020) |
| 06/02/2020 | 25 | MOTION for leave to file excess pages <i>for Motion to Dismiss</i> by defendant Dana Nessel; (Sherman, Ann) (Entered: 06/02/2020) |
| 06/02/2020 | 26 | MOTION to dismiss by defendant Dana Nessel; (Sherman, Ann) (Entered: 06/02/2020) |
| 06/02/2020 | 27 | BRIEF in support of MOTION to dismiss 26 filed by Dana Nessel (Attachments: # 1 Exhibit 1) (Sherman, Ann) (Entered: 06/02/2020) |
| 06/02/2020 | 28 | CERTIFICATE regarding compliance with LCivR 7.1(d) re MOTION for leave to file excess pages <i>for Motion to Dismiss</i> 25 filed by Dana Nessel (Sherman, Ann) (Entered: 06/02/2020) |
| 06/02/2020 | 29 | CERTIFICATE regarding compliance with LCivR 7.1(d) re MOTION to dismiss 26 filed by Dana Nessel (Sherman, Ann) (Entered: 06/02/2020) |
| 06/02/2020 | 30 | CERTIFICATE of compliance re word count for Brief in Support of a Motion 27 filed by Dana Nessel (Sherman, Ann) (Entered: 06/02/2020) |
| 06/05/2020 | 31 | ORDER granting 24 motion for leave to file excess pages; granting 25 motion for leave to file excess pages; signed by District Judge Paul L. Maloney (Judge Paul L. Maloney, acr) (Entered: 06/05/2020) |
| 06/05/2020 | 32 | BRIEF by plaintiffs Jeffery Gulick, Midwest Institute of Health, PLLC, Primary Health Services, PC, Wellston Medical Center, PLLC <i>Regarding Certification of State-Law Issues to the Michigan Supreme Court</i> (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4) (Peterson, James) (Entered: 06/05/2020) |
| 06/05/2020 | 33 | BRIEF by defendants Robert Gordon, Gretchen Whitmer <i>with Certificate of Service</i> (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E) (Froehlich, Joseph) (Entered: 06/05/2020) |
| 06/05/2020 | 34 | BRIEF by defendant Dana Nessel <i>on certification (supplemental)</i> (Attachments: # 1 Exhibit 1) (Sherman, Ann) Modified text on 6/8/2020 (clw). (Entered: 06/05/2020) |

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| 06/05/2020 | 35 | MOTION to dismiss by defendants Robert Gordon, Gretchen Whitmer; (Attachments: # 1 Brief in Support, # 2 Index, # 3 Exhibit A, # 4 Exhibit B, # 5 Exhibit C, # 6 Exhibit D, # 7 Exhibit E, # 8 Exhibit F, # 9 Exhibit G, # 10 Exhibit H, # 11 Exhibit I, # 12 Exhibit J, # 13 Exhibit K, # 14 Exhibit L, # 15 Exhibit M, # 16 Exhibit N, # 17 Exhibit O) (clw) (Entered: 06/08/2020) |
| 06/10/2020 | 36 | MINUTES of hearing regarding certification of issues to Michigan Supreme Court; opinion to issue; held before District Judge Paul L. Maloney (Court Reporter: Kathleen Thomas) (Judge Paul L. Maloney, acr) (Entered: 06/10/2020) |
| 06/11/2020 | 37 | NOTICE <i>joint notice of supplemental authority regarding their motions to dismiss</i> by defendants Robert Gordon, Dana Nessel, Gretchen Whitmer (Attachments: # 1 Exhibit A: Opinion and Order Granting Defendants Motion to Dismiss issued in Martinko, et al. v. Gretchen Whitmer) (Froehlich, Joseph) Modified text on 6/12/2020 (clw). (Entered: 06/11/2020) |
| 06/11/2020 | 38 | JOINT MOTION for reconsideration re 36 <i>Certification</i> by defendants Robert Gordon, Dana Nessel, Gretchen Whitmer; (Attachments: # 1 Exhibit A: Barachkov v. Davis, 580 Fed.Appx. 288 (2014)) (Froehlich, Joseph) Modified text on 6/12/2020 (clw). (Entered: 06/11/2020) |
| 06/11/2020 | 39 | ORDER regarding response to Motion for Reconsideration 38 responses due by 12:00 p.m. on 6/12/2020; signed by District Judge Paul L. Maloney (Judge Paul L. Maloney, acr) (Entered: 06/11/2020) |
| 06/12/2020 | 40 | RESPONSE in opposition to JOINT MOTION for reconsideration re 36 38 filed by Jeffery Gulick, Midwest Institute of Health, PLLC, Primary Health Services, PC, Wellston Medical Center, PLLC (Peterson, James) Modified text on 6/15/2020 (clw). (Entered: 06/12/2020) |
| 06/12/2020 | 41 | STIPULATION <i>and Proposed Facts and Questions Regarding Certification of State-Law Issues to the Michigan Supreme Court</i> by plaintiffs Jeffery Gulick, Midwest Institute of Health, PLLC, Primary Health Services, PC, Wellston Medical Center, PLLC (Peterson, James) (Entered: 06/12/2020) |
| 06/16/2020 | 42 | ORDER denying 38 motion for reconsideration; signed by District Judge Paul L. Maloney (Judge Paul L. Maloney, cmc) (Entered: 06/16/2020) |
| 06/16/2020 | 43 | OPINION; signed by District Judge Paul L. Maloney (Judge Paul L. Maloney, cmc) (Entered: 06/16/2020) |

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| 06/16/2020 | 44 | ORDER re STIPULATION 41 and staying the case; signed by District Judge Paul L. Maloney (Judge Paul L. Maloney, cmc) (Entered: 06/16/2020) |
| 06/17/2020 | | Certified Copy of Opinion 43 , Order on Stipulation 44 sent via U.S. Mail to Clerk of the Michigan Supreme Court @ PO Box 30052,Lansing, MI 48909 (clw) (Entered: 06/17/2020) |
| 06/25/2020 | 45 | NOTICE OF APPEAL re 42 by defendants Robert Gordon, Gretchen Whitmer (Fedynsky, John) (Entered: 06/25/2020) |
| 06/25/2020 | | APPEAL FEE PAID re 45 by defendants Robert Gordon, Gretchen Whitmer in the amount of \$505, receipt number AMIWDC-5393217 (Fedynsky, John) (Entered: 06/25/2020) |
| 06/26/2020 | 46 | LETTER FROM CCA regarding appeal 45 indicating Civil Case Docketed (clw) (Entered: 06/29/2020) |
| 06/26/2020 | | CASE NUMBER 20-1611 assigned by Sixth Circuit to appeal 45 (clw) (Entered: 06/29/2020) |
| 07/02/2020 | 47 | NOTICE OF APPEAL re 42 by defendant Dana Nessel (Sherman, Ann) (Entered: 07/02/2020) |
| 07/02/2020 | | APPEAL FEE PAID re 47 by defendant Dana Nessel in the amount of \$505, receipt number AMIWDC-5419471 (Sherman, Ann) (Entered: 07/02/2020) |
| 07/09/2020 | | CASE NUMBER 20-1650 assigned by Sixth Circuit to appeal 47 (clw) (Entered: 07/09/2020) |
| 07/09/2020 | 48 | LETTER FROM CCA regarding appeal 47 indicating Civil Case Docketed (clw) (Entered: 07/09/2020) |
| 08/10/2020 | 49 | APPEAL TRANSCRIPT of the Preliminary Injunction Hearing held June 10, 2020, before the Honorable Paul L. Maloney; re appeal 45 , 47 ; NOTE: this transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the release of transcript restriction date; after that date it may be obtained through PACER; under the Policy Regarding Transcripts the parties have 14 days within which to file a Notice of Intent to redact, and 21 days within which to file a Redaction Request; if no Transcript Redaction Request is filed, the court will assume redaction of personal identifiers is not necessary and this transcript will be made available via PACER after the release of transcript restriction set for 11/9/2020 ; redaction request due 8/31/2020 (Court Reporter-Transcriptionist: K. Thomas, (269) 808-6116) (Entered: 08/10/2020) |

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