

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

SEXTURE W. RAGLAND,

Plaintiff,

vs

MICHAEL S. MLECZKO, and
CITY OF DETROIT,
A Municipal Corporation,

Defendants.

RAGLAND, SEXTURE W v MLECZKO, MIC
Hon. Michael F. Sapala 04/21/2009



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**ORDER COMPELLING ANSWERS TO PLAINTIFF'S
INTERROGATORIES AND REQUEST FOR PRODUCTION
OF DOCUMENTS AND TO COMPEL THE DEPOSITION OF
CLAIMS ADJUSTER MONIQUE TYLER**

At a session of said Court held in the City of
Detroit, County of Wayne, and State of Michigan,
and on FEB 08 2010

PRESENT: MICHAEL F. SAPALA
CIRCUIT COURT JUDGE

Upon the filing and reading of the attached Stipulation and the Court being
otherwise fully advised in the premises;

IT IS HEREBY ORDERED that Defendant, CITY OF DETROIT, shall answer
Plaintiff's First Set of Interrogatories and Request for Production of Documents within
fourteen (14) days of entry of this Order;

IT IS HEREBY FURTHER ORDERED that the Defendant shall produce claims adjuster Monique Tyler at a mutually convenient date and time on or before discovery cutoff of March 2, 2010.

MICHAEL F. SAPALA

CIRCUITCOURT JUDGE

A TRUE COPY
CATHY M. GARRETT
WAYNE COUNTY CLERK
BY C. Patterson
DEPUTY CLERK

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

SEXTURE W. RAGLAND,

Plaintiff,

Case No.: 09-009412 NI

Hon. Michael F. Sapala

vs

MICHAEL S. MLECZKO, and
CITY OF DETROIT,
A Municipal Corporation,

Defendants.

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**PLAINTIFF'S MOTION TO COMPEL DEFENDANT CITY OF DETROIT'S ANSWERS
TO INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS
AND TO COMPEL THE DEPOSITION OF CLAIMS ADJUSTER MONIQUE TYLER**

NOW COMES Plaintiff, SEXTURE W. RAGLAND, by and through his attorneys, GURSTEN, KOLTONOW, GURSTEN, CHRISTENSEN & RAITT, P.C. and for his Motion to Compel Interrogatories and Request for Production of Documents and the deposition of claims adjuster Monique Tyler, states as follows:

1. Plaintiff filed a first party claim against Defendant City of Detroit when Defendant's claim representative unlawfully refused to pay Plaintiff's No-Fault benefits.

2. On April 27, 2009, Plaintiff properly served Interrogatories and Request for Production of Documents which requested the **complete** PIP claim file, including adjuster log notes, payment logs and activity logs, along with other documentation concerning Plaintiff's PIP claim.

3. More than the allotted period of time has passed without receipt of the Answers to the Interrogatories and Production of Documents and without objections to them.

4. Every No-Fault claim file contains adjuster log notes, payment logs and activity logs which document the Defendant's every action, decision and conversation concerning the claim.

5. The heart of a No-Fault claim is in the claims representative's decision to deny benefits that an insured purchased, and the underpinnings of that decision.

6. The Defendant's adjuster log notes, payment logs and activity logs are ongoing documentary records of the Defendant's communications and reasons for denying Plaintiff's claims and is, therefore, centrally relevant.

7. Plaintiff is, therefore, entitled to a complete and up to date copy of the adjuster log notes, payment logs and activity logs.

8. The activity logs are not attorney work product, and, even if protected, cannot be reasonably obtained by the Plaintiff through any other means, and therefore should be produced.

9. Defendant's refusal to answer is without substantial justification, and Plaintiff is entitled to costs, expenses and attorney fees in accordance with MCR 2.313(A)(5)(a).

10. On or about October 13, 2009, Notice of Taking Duces Tecum Deposition of Defendant, Monique Tyler, was served requesting the deposition be taken on Monday,

November 23, 2009 at 2:30 p.m. at the office of defense counsel, Draugelis & Ashton in conjunction with co-defendant's deposition on that date and time (See "Exhibit 1").

11. Defendant, Monique Tyler, failed to appear for this deposition on November 23, 2009 and though Plaintiff has made attempts to secure a new date and time, there has been no response from Defendant.

WHEREFORE, Plaintiff moves this Honorable Court for an Order under MCR 2.309 and MCR 2.313(A)(5)(a) granting Plaintiff's Motion to Compel Answers to Interrogatories and Production of Documents, and to assess costs and fees for having to bring this Motion. Plaintiff further moves this Court for an Order to Compel the deposition of Defendant claims adjuster Monique Tyler within fourteen (14) days of this Order.

GURSTEN, KOLTONOW, GURSTEN,
CHRISTENSEN & RAITT, P.C.

BY: _____
THOMAS W. JAMES (P68563)
Attorney for Plaintiff
26555 Evergreen Road, Suite 1530
Southfield, Michigan 48076
(248) 353-7575

Dated: January 28, 2010

STATE OF MICHIGAN

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SEXTURE W. RAGLAND,

Plaintiff,

Case No.: 09-009412 NI

Hon. Michael F. Sapala

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BRIEF IN SUPPORT OF MOTION

NOW COMES Plaintiff SEXTURE W. RAGLAND,, by and through his attorneys,
GURSTEN, KOLTONOW, GURSTEN, CHRISTENSEN & RAITT, P.C., and hereby relies
upon MCR 2.309(C) and MCR 2.313(A)(5)(a) in support of his Motion.

WHEREFORE, Plaintiff moves this Honorable Court for an Order granting
Plaintiff's Motion to Compel Answers to Interrogatories and Production of Documents,
and to assess costs and fees for having to bring this Motion and for an Order to Compel
Defendant claims adjuster's deposition with fourteen (14) days.

GURSTEN, KOLTONOW, GURSTEN,
CHRISTENSEN & RAITT, P.C.

BY: _____
THOMAS W. JAMES (P68563)
Attorney for Plaintiff

Dated: January 28, 2010