

KING & SPALDING

King & Spalding LLP
1185 Avenue of the Americas
New York, NY 10036-4003

Tel: (212) 556-2100
Fax: (212) 556-2222
www.kslaw.com

Arthur J. Steinberg
Direct Dial: 212-556-2158
asteinberg@kslaw.com

September 19, 2011

**VIA ECF FILING AND
OVERNIGHT MAIL**

The Honorable Robert E. Gerber
United States Bankruptcy Judge
United States Bankruptcy Court
Southern District of New York
Alexander Hamilton Custom House
One Bowling Green
New York, New York 10004

Re: In re Motors Liquidation Company, et al.
Case No. 09-50026

Dear Judge Gerber:

King & Spalding LLP is counsel to General Motors LLC (“**New GM**”) in the above-referenced bankruptcy cases. The Court has scheduled a hearing for September 26, 2011 to hear argument on the relief requested in various pleading filed by Mr. Billy Ray Kidwell.

As referenced in previous pleadings and letters filed with the Court, Mr. Kidwell had commenced litigation against New GM in the United States District Court for the Middle District of Florida (“**Florida District Court**”). By letter dated August 10, 2011, I informed the Court that the Florida District Court, by Order to Show Cause dated July 19, 2011 (“**OSC**”), directed Mr. Kidwell to show cause why his case should not be dismissed for failure to prosecute due to his failure to file a second amended complaint. Mr. Kidwell was given 14 days to respond to the OSC and to file a second amended complaint.

As Mr. Kidwell did not respond to the OSC or file his second amended complaint within the time provided by the Florida District Court, an Order was entered on August 9, 2011 (“**August 9 Order**”) in that action (i) dismissing Mr. Kidwell’s complaint without prejudice, and (ii) directing the Clerk of the Court to “terminate all motions and deadlines, enter judgment accordingly and close this case.” By Judgment dated August 11, 2011 (“**August 11 Judgment**”), the Clerk of the Florida District Court entered judgment dismissing Mr. Kidwell’s



Honorable Robert E. Gerber
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complaint, without prejudice. A copy of the August 11 Judgment is enclosed herewith as Exhibit "A". On the same day that the Florida District Court entered the August 9 Order, Mr. Kidwell filed a response to the OSC ("**Kidwell Response**"). A copy of the Kidwell Response is enclosed herewith as Exhibit "B".

Subsequently, Mr. Kidwell filed a Notice of Appeal, dated August 29, 2011 ("**Notice of Appeal**") with the Florida District Court, appealing that Court's August 9 Order dismissing his complaint. A copy of the Notice of Appeal is enclosed herewith as Exhibit "C".

In addition, in connection with a previous appeal by Mr. Kidwell filed in response to an Order, dated September 10, 2010, of the Florida District Court which dismissed Mr. Kidwell's complaint, the Clerk of the Eleventh Circuit Court of Appeals dismissed that appeal for want of prosecution on September 15, 2011 ("**Entry of Dismissal**"). A copy of the Clerk's Entry of Dismissal is enclosed herewith as Exhibit "D".

Respectfully submitted,


Arthur Steinberg 

cc: Mr. Billy Ray Kidwell
5064 Silver Bell Drive
Port Charlotte, Florida 33948

EXHIBIT A

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

BILLY R. KIDWELL,

Plaintiff,

-vs-

Case No. 2:09-cv-108-FtM-36DNF

G. RICHARD WAGONER, GM CEO sued in a personal capacity, PERCY N. BARMEVIK, GM Board of Directors sued in personal capacity, ERSKINE B. BOWLES, GM board of Directors sued in a personal capacity, JOHN H. BRYAN, GM board of directors sued in a personal capacity, ARMANDO M. CODINA GM board of Directors sued in a personal capacity, GEORGE M.C. FISHER, GM Board of Directors sued in a personal capacity, KAREN KATEN, GM Board of Directors sued in a personal capacity, KENT KRESA, GM Board of Directors sued in a personal capacity, ELLEN J. KULLMAN, GM Board of Directors sued in a personal capacity, PHILLIP A. LASKAWY, GM Board of Directors sued in a personal capacity, E. STANLEY O'NEAL, GM Board of Directors sued in a personal capacity, ECKHARD PFEIFFER, GM board of Directors sued in a personal capacity, CAROLYN WESTBERG, GM customer relationship manager sued in a personal capacity, and GENERAL MOTORS COMPANY,

Defendants.

JUDGMENT IN A CIVIL CASE

Decision by Court. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that pursuant to the Court's Order entered on August 9th, 2011, the Complaint is DISMISSED, without prejudice.

Date: August 11, 2011

SHERYL L. LOESCH, CLERK

By: /s/ Samantha Blake, Deputy Clerk

c: All parties and counsel of record

CIVIL APPEALS JURISDICTION CHECKLIST

1. **Appealable Orders:** Courts of Appeals have jurisdiction conferred and strictly limited by statute:
 - (a) **Appeals from final orders pursuant to 28 U.S.C. Section 1291:** Only final orders and judgments of district courts, or final orders of bankruptcy courts which have been appealed to and fully resolved by a district court under 28 U.S.C. Section 158, generally are appealable. A final decision is one that "ends the litigation on the merits and leaves nothing for the court to do but execute the judgment." Pitney Bowes, Inc. V. Mestre, 701 F.2d 1365, 1368 (11th Cir. 1983). A magistrate judge's report and recommendation is not final and appealable until judgment thereon is entered by a district court judge. 28 U.S.C. Section 636(c).
 - (b) **In cases involving multiple parties or multiple claims,** a judgment as to fewer than all parties or all claims is not a final, appealable decision unless the district court has certified the judgment for immediate review under Fed.R.Civ.P. 54(b), Williams v. Bishop, 732 F.2d 885, 885-86 (11th Cir. 1984). A judgment which resolves all issues except matters, such as attorneys' fees and costs, that are collateral to the merits, is immediately appealable. Budinich v. Becton Dickinson & Co., 486 U.S. 196, 201, 108 S. Ct. 1717, 1721-22, 100 L.Ed.2d 178 (1988); LaChance v. Duff's Draft House, Inc., 146 F.3d 832, 837 (11th Cir. 1998).
 - (c) **Appeals pursuant to 28 U.S.C. Section 1292(a):** Appeals are permitted from orders "granting, continuing, modifying, refusing or dissolving injunctions or refusing to dissolve or modify injunctions..." and from "[i]nterlocutory decrees...determining the rights and liabilities of parties to admiralty cases in which appeals from final decrees are allowed." Interlocutory appeals from orders denying temporary restraining orders are not permitted.
 - (d) **Appeals pursuant to 28 U.S.C. Section 1292(b) and Fed.R.App.P.5:** The certification specified in 28 U.S.C. Section 1292(b) must be obtained before a petition for permission to appeal is filed in the Court of Appeals. The district court's denial of a motion for certification is not itself appealable.
 - (e) **Appeals pursuant to judicially created exceptions to the finality rule:** Limited exceptions are discussed in cases including, but not limited to: Cohen V. Beneficial Indus. Loan Corp., 337 U.S. 541,546,69 S.Ct. 1221, 1225-26, 93 L.Ed. 1528 (1949); Atlantic Fed. Sav. & Loan Ass'n v. Blythe Eastman Paine Webber, Inc., 890 F. 2d 371, 376 (11th Cir. 1989); Gillespie v. United States Steel Corp., 379 U.S. 148, 157, 85 S. Ct. 308, 312, 13 L.Ed.2d 199 (1964).

2. **Time for Filing:** The timely filing of a notice of appeal is mandatory and jurisdictional. Rinaldo v. Corbett, 256 F.3d 1276, 1278 (11th Cir. 2001). In civil cases, Fed.R.App.P.4(a) and (c) set the following time limits:
 - (a) **Fed.R.App.P. 4(a)(1):** A notice of appeal in compliance with the requirements set forth in Fed.R.App.P. 3 must be filed in the district court within 30 days after the entry of the order or judgment appealed from. However, if the United States or an officer or agency thereof is a party, the notice of appeal must be filed in the district court within 60 days after such entry. **THE NOTICE MUST BE RECEIVED AND FILED IN THE DISTRICT COURT NO LATER THAN THE LAST DAY OF THE APPEAL PERIOD - no additional days are provided for mailing.** Special filing provisions for inmates are discussed below.
 - (b) **Fed.R.App.P. 4(a)(3):** "If one party timely files a notice of appeal, any other party may file a notice of appeal within 14 days after the date when the first notice was filed, or within the time otherwise prescribed by this Rule 4(a), whichever period ends later."
 - (c) **Fed.R.App.P.4(a)(4):** If any party makes a timely motion in the district court under the Federal Rules of Civil Procedure of a type specified in this rule, the time for appeal for all parties runs from the date of entry of the order disposing of the last such timely filed motion.
 - (d) **Fed.R.App.P.4(a)(5) and 4(a)(6):** Under certain limited circumstances, the district court may extend the time to file a notice of appeal. Under Rule 4(a)(5), the time may be extended if a motion for an extension is filed within 30 days after expiration of the time otherwise provided to file a notice of appeal, upon a showing of excusable neglect or good cause. Under Rule 4(a)(6), the time may be extended if the district court finds upon motion that a party did not timely receive notice of the entry of the judgment or order, and that no party would be prejudiced by an extension.
 - (e) **Fed.R.App.P.4(c):** If an inmate confined to an institution files a notice of appeal in either a civil case or a criminal case, the notice of appeal is timely if it is deposited in the institution's internal mail system on or before the last day for filing. Timely filing may be shown by a declaration in compliance with 28 U.S.C. Section 1746 or a notarized statement, either of which must set forth the date of deposit and state that first-class postage has been prepaid.

3. **Format of the notice of appeal:** Form I, Appendix of Forms to the Federal Rules of Appellate Procedure, is a suitable format. See also Fed.R.App.P. 3(c). A pro se notice of appeal must be signed by the appellant.

4. **Effect of a notice of appeal:** A district court loses jurisdiction (authority) to act after the filing of a timely notice of appeal, except for actions in aid of appellate jurisdiction or to rule on a timely motion of the type specified in Fed.R.App.P. 4(a)(4).

Rev.: 4/04

EXHIBIT B

Plaintiff is extremely confused, as to whether this case is before Magistrate Douglas N. Frazier, or District Court Judge Charlene Edwards Honeywell, because of their *ongoing* irrational conduct in this case¹, passing this case back, and forth, at whim, without advising the Plaintiff, and taking turns issuing Orders in this case, therefore Plaintiff is filing a response with both judges, just to be safe.

Plaintiff now submits the following reasons he has not filed an Amended Complaint, proving that it is impossible for Plaintiff to file an Amended Complaint, as Ordered by this Court, unless this Court appoints counsel.

1. United States District Court Judge Charlene Edwards Honeywell, and Magistrate Douglas N. Frazier, are extremely bias, and hostile, towards *Pro Se Litigants*, and are working together to OBSTRUCT the *Pro Se Plaintiff's* access to this Court, by keeping the Plaintiff completely confused as to who this case is before, as to the legal process going on, and even as to what Court has jurisdiction over the Appeals process, as they pass this Case back, and forth, between them, at whim.

¹ It is normal for a Judge to tell an Attorney, and issue a Court Order, when a case is transferred from one judge, to a different judge, however Judge Honeywell, and Magistrate Frazier, knowing the Pro Se Plaintiff is extremely disabled with a Life-Threatening Stress Disorder, and is on heavy medications, have been secretly passing this case back, and forth, while issuing conflicting Court Orders to intentionally cause the disabled *Pro Se Litigant*, whom both judges do not like, substantial undue stress.

2. To further OBSTRUCT the Plaintiff's Access to this Court, United States District Court Judge Charlene Edwards Honeywell issued an extremely complex Order, requiring Plaintiff to file an Amended Complaint that only a trained attorney, or someone with at least several years of law school, or a similar College-Level Education, could comply with.
3. And during this same time period Judge Honeywell² issued several ORDERS that contradict each other, first saying the GM Sales ORDER prohibits Plaintiff's claims, and then Judge Honeywell appeared to reverse herself, while harassing, and admonishing the severely disabled *Pro Se Plaintiff*, punishing, and harassing, the Severely Disabled Plaintiff because the Defendant's Attorneys lied to the Court.
4. And then Magistrate Frazier started issuing Court ORDERS without this Court notifying Plaintiff the case had been transferred to Magistrate Frazier.
5. Even a highly trained Attorney would have a hard time figuring out what to do in this Case, with all the contradictions, and constant passing of this

² During this exact same time period Magistrate Frazier was apparently passed this case several times since he started issuing Court Orders too. Plaintiff is confused because Judge Honeywell, and Magistrate Frazier, kept passing the case back, and forth, without notice of any kind, or any apparent reason, other than to confuse, and harass the Plaintiff, who is disabled, and on heavy medications.

case, back, and forth, back, and forth, between Judge, and Magistrate, while this Court intentionally keeps Plaintiff in the dark, as to what is going on, while this Court has issued NO Court Order(s) changing jurisdiction, from Magistrate Frazier's Magistrate Court to Judge Honeywell's District Court, while this Court refuses to explain to the extremely confused Plaintiff what is going on.

6. Plaintiff is completely confused and has no idea how to proceed. [See Attached Declaration.]
7. Plaintiff, who does not even have a real high school diploma, quitting school in the fifth grade to support his disabled father, barely obtained a GED while in the United States Army, and lacks the education necessary to file the extremely complex, and highly technical, Amended Complaint this Court Ordered.
8. This is the most complex case Plaintiff has ever been in, and has Plaintiff completely confused.
9. This case is light-years more complex than the Eleventh Circuit Cases where the Court found that the Appointment of counsel was necessary.
10. Plaintiff has no way of drafting the extremely complex amended Complaint this Court wants without the assistance of counsel.

11. Plaintiff, who does not even have a real high school diploma, has problems understanding complex issues.
12. Plaintiff is severely disabled, and on heavy medications, with Judge Honeywell, and Magistrate Frazier, doing all they can to keep the *Pro Se Litigant* completely confused.
13. Plaintiff spent nearly a year (12 months) putting forth his very best efforts to file the Original Complaint in this case, and according to this Court's Order, that Complaint, **resulting from a year of Plaintiff's very best efforts**, was not good enough. [Emphasis added.]
14. Plaintiff has no idea how to change his Complaint, and Amend it, to comply with Judge Honeywell's Court Order to Amend the Complaint, and Plaintiff has no idea who he would file the amended Complaint with, if he were capable of drafting one, since one minute Magistrate Frazier has this case, and the next minute Judge Honeywell has this case.
15. *In addition*, to Plaintiff's clear lack of the education necessary to comply with this Court's Order to Amend his Complaint, *in the extremely specific ways this Court wants*³, the Plaintiff is elderly, and severely disabled, with a Stress Disorder, severe depression, and a mood disorder, each of which obstruct his understanding extremely complex legal issues.

³ See this Court's Order requiring Plaintiff to amend his Complaint that seems like a foreign language to Plaintiff.

16. The heavy medications Plaintiff is on inhibit, hinder, and Obstruct, his thought process.

17. This Court has went out of its way to Obstruct the confused, Severely Disabled Plaintiff, by telling the Plaintiff that there is one procedure when this case is before a Magistrate, such as Appealing to a Judge, and telling Plaintiff there is another procedure, when this case is before a U.S. District Court Judge, such as Appealing to the Eleventh Circuit, while this Court secretly passes this case back, and forth, between Magistrate Frazier, and Judge Honeywell, **for no apparent reason, other than to keep the Plaintiff completely confused as to the legal process.**

18. Plaintiff has filed Motions making this Court fully aware of all this, and has asked this Court to either Appoint Counsel, or fully explain to Plaintiff exactly what this Court wants, and to guide the Plaintiff, so that the Plaintiff can comply with this Court's Order.

19. This Court has refused on **BOTH** request(s).

20. Plaintiff has also made this Court fully aware that Plaintiff is a severely disabled individual, entitled to the Protections of the Americans with Disabilities Act⁴, and although the Federal Courts are not legally required to abide by the ADA, the Administrator of the Courts in Washington

⁴ Hereinafter the Americans with Disabilities Act is referred to as simply the "ADA".

D.C. has advised Plaintiff that all Federal Courts are required to voluntarily comply with the Americans with Disabilities Act.

21. This Court blatantly REFUSED to voluntarily comply with the ADA, as all other federal Courts do, intentionally denying Plaintiff the fair treatment other disabled individuals voluntarily receive from the Federal Courts, denying Plaintiff equal, fair treatment, and “*Equal Protection of the Law*”.

22. This Court not only refused to treat Plaintiff fairly, and voluntarily comply with the ADA, but has done everything in its power to aggravate Plaintiff’s disabilities.

23. This Court is fully aware that Plaintiff’s disabilities have been aggravated, until Plaintiff is bed-bound most of the time, and that this is the first Court in American History, to require a severely ill, disabled Plaintiff with Life-Threatening Disabilities, who is bed bound most of the time because of those disabilities, to endanger his life, and get out of bed to do massive amounts of legal work, that would be difficult for a trained attorney, as the “*Price*” for having access to this Court.

24. Judge Honeywell, and Magistrate Frazier, have GREATLY exceeded the disability discrimination conduct in Tennessee v. Lane, 541 U.S. 509 which the United States Supreme Court says is violative of Due Process, and the Fundamental Right of the Disabled to “*Meaningful*” Access to the Court, and although compliance with the ADA is “*Voluntary*” for

Judge Honeywell, and Magistrate Frazier, their compliance with the Due Process Requirements of the United States Constitution is NOT.

25. This Court is fully aware that Plaintiff has been to this Court, over the years, in other *Pro Se Lawsuits*.

26. This Court is fully aware that the Records of those *Pro Se Lawsuits* Plaintiff has filed in this Court, proves that;

- (a) Plaintiff always files lawsuits in Good Faith, as a last resort, when he has been wronged, is lawfully entitled to relief, and has no other available, realistic, remedy.
- (b) That the records of those many lawsuits document a long pattern, history, “*Policy*”, and practice, of dishonesty in this Court by attorneys, clearly encouraged by this Court to be dishonest, due to this Court’s “*Policy*” of never requiring attorneys to be honest, when one party is a helpless, *Pro Se Litigant* unable to afford to hire counsel.
- (c) The records of those many cases prove, and document, a long pattern, history, “*Policy*”, and practice, of bias, hate, and discrimination by this Court against *Pro Se Litigants*, that clearly has continued in this case.
- (d) The records of those many cases prove, and document, a long pattern, history, “*Policy*”, and practice, of Plaintiff not being treated fair, and not

having a chance of obtaining the relief he is entitled to in this Court, until a trained Attorney becomes involved, assisting the *Pro Se Litigant*.

- (e) The records of those many cases prove, and document, a long pattern, history, "*Policy*", and practice, of excessive litigation, and dilatory "*Tactics*" by the Attorneys for the Defendants, in lawsuits filed by the *Pro Se Litigant*, and a massive waste of tax dollars, until a trained Attorney becomes involved assisting the *Pro Se Litigant*.
- (f) The records of those many cases prove, and document, a long pattern, history, "*Policy*", and practice, of the case being PROMPTLY resolved, once the *Pro Se Litigant* obtains counsel.
- (g) The records of those many cases prove, and document, that there will not be any fairness, or honesty by Defendant's Attorneys, or "*Meaningful*" Due Process, unless, and until, counsel is appointed for the *Pro Se Litigant*.

27. This Court is fully aware that in Kidwell v. Fisher Price Attorneys for the Defendants were dishonest, this Court was extremely hostile, and dishonest, and Plaintiff was denied all fairness, and any chance of obtaining relief, *with the cards stacked against him*, UNTIL a Guardian Ad Litem was appointed by this Court for Plaintiff's minor child, who had her finger cut off, by a defective toy that had been recalled.

28. The appointment of the Guardian Ad Litem resulted in Defendant's Attorneys immediately becoming honest, and a very prompt, and fair, resolution of the Fisher Price case (according to the Judgment Order of this Court) resulting in a massive savings of tax dollars for the public, by stopping what would surely have been years of litigation.
29. As this Court is aware, that again in Kidwell v. Charlotte County Schools the Attorneys for the School System were dishonest, snowballing the litigation, at great cost to the Public, and, again, this Court was dishonest, appointing a former very hostile Charlotte County Prosecutor (now U.S. Magistrate) with strong ties to the Charlotte County School System, as judge over the Charlotte County School System Lawsuit.
30. *Again*, Plaintiff had no chance of obtaining justice, as this Court RUBBERSTAMPED everything the School Board Attorneys said, while this Court even threatened Plaintiff, until the School Union Appointed Counsel for Plaintiff's wife.
31. As soon as there was an Attorney involved on Plaintiff's side the habitual litigation abuse, lies, and misconduct by the School Board's Attorneys in this Court stopped, this Court stopped its harassment of Plaintiff, and the School Board promptly settled the case for an amount that this Court found to be fit, and proper, in a Court Order.
32. *Simply put*, case, after case, after case filed by the *Pro Se Litigant* proves a strong bias against *Pro Se Litigants* in this Court, and a complete lack of honesty, fairness, and Due Process UNTIL an attorney becomes

involved for the *Pro Se Litigant*. It is only then, according to this Court's OWN judgment Orders, that justice is obtained.

33. And in case, after case, after case there is a snowballing of the case, dilatory tactics, dishonesty and a massive, unnecessary, cost to the public, and great waste of this Court's time UNTIL counsel becomes involved for the *Pro Se Litigant*.
34. And in this case, *as in the other cases*, it is clear that Plaintiff will not obtain fair treatment, honesty, or Due Process until Counsel is appointed.
35. Without an Attorney the Plaintiff, no matter how hard he tries, is simply unable to understand, and lacks the ability to comply with this Court's Order to file an Amend Complaint, pursuant to this Court's requirements.
36. The Records of those prior *Pro Se Lawsuits*, by Plaintiff in this Court, *over the years*, clearly document a pattern, and history, of hostility, and discrimination against the *Pro Se Litigant* by this Court.
37. Proving this Court does not like *Pro Se Litigants*, or citizens, that dare exercise their rights, and enter the domain this Court reserves only for Attorneys.
38. This Court is fully aware that the Records of those *Pro Se Lawsuits* by Plaintiff in this Court clearly document a pattern, and history, of hostility, and discrimination against the *Pro Se Litigant* by this Court, and prove

that **Plaintiff has no chance of fairness** in this Court, unless an Attorney is appointed for Plaintiff.

39. This Court intentionally lied, and said Plaintiff is an experienced *Pro Se Litigator*, who does not need Counsel Appointed, and is capable of proceeding *Pro Se*, and at the same exact time this Court is fully aware that Plaintiff is bed-bound, and under Doctor's ORDERS to avoid stress, because of Plaintiff's history of a Life-Threatening Stress-Caused Heart Attack.
40. This Court is aware that records of prior cases filed by Plaintiff in this Court prove, beyond any doubt, that Plaintiff is NOT an experienced litigator, does NOT know how to properly proceed, and will NOT receive fairness, or Due Process in this Court without an Attorney. [See the attached Exhibits.]
41. This case so complex even the Judges in this case keep changing their Court ORDERS, and passing the case back and forth, and yet those Judges lie on the record, fraudulently claiming that the *Pro Se Litigant*, who is endangering his life each time he files a motion, and has less than a high school education, and has a well-documented record of needing an attorney to be treated fair in this Court, and who is on a massive amount of medications, and bed-bound, is somehow able to proceed without counsel. **Such a claim by this Court is far beyond ridiculous.**

No Reasonable Person on Earth would believe such blatant lies by Magistrate Frazier, or Judge Honeywell.

Which is why Magistrate Frazier, and Judge Honeywell, have absolutely refused to appoint a Medical Expert to examine the Plaintiff, and testify, as to how those two judges are endangering Plaintiff's life with their outrageous, unconstitutional conduct.

The evidence is overwhelming that Judge Honeywell, and Magistrate, because of their great hate of *Pro Se Litigants* have refused to appoint counsel, and **OBSTRUCTED** the bed-bound Plaintiff from responding as they have intentionally aggravated Plaintiff's disabilities for their Attorney "*friends*".

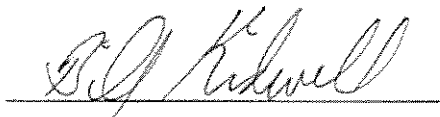
Like the cases of Kidwell v. Fisher Price, and Kidwell v. Charlotte County Schools, the corruption, dishonesty, and fixing of this case will continue, because of this Court's extremely strong hate for *Pro Se Litigants*, **until an Attorney gets involved for the Plaintiff.**

Plaintiff intends to Appeal, all the way to the Supreme Court, *if need be*, until an Attorney is appointed to stop the harassment, the dishonesty, and the lack of Constitutional, or ADA rights, for the disabled in this Court.

Prayer

Plaintiff seeks basic fairness, and Due Process of Law. For the Obstruction to stop, and for Plaintiff to be allowed to comply with this Court's Order, without having to risk his life, by this Court appointing counsel.

Submitted by,



August 4, 2011

Billy Kidwell, *Pro Se*

5064 Silver Bell Drive

Port Charlotte, FL. 33948

941-627-0433

CERTIFICATE OF SERVICE

I, Billy Ray Kidwell, hereby certify that a true and correct copy of the attached was served on Defendants on this the 4th August 2011 by mailing a true and correct copy of same to their Attorney(s).



Billy Ray Kidwell

Billy R Kidwell

5043 Silver Bell Drive
Fort Charlotte, FL 33948
United States of America



USA FIRST CLASS

USA FIRST CLASS

USA FIRST CLASS

USA FIRST CLASS



United States District Court
Middle District of Florida
United States Courthouse & Federal
Building
2110 First Street, Room 2-194
Fort Myers, FL 33901

EXHIBIT A

4. I state, under oath, that I am a 100% Service-Connected Disabled Veteran, and have been disabled since my Army service in Vietnam in 1969.
5. I state, under oath, that VA Doctors at Bay Pines, after extensive heart tests, told me that I had suffered a Stress-Caused Heart Attack that damaged my heart, and that as a result my heart is operating at only 43%, and any stress can cause another heart attack, and cause my death.
6. I state, under oath, that to the best of my knowledge this Court keeps passing this case back and forth between Magistrate Frazier, and Judge Honeywell, for no apparent reason, other than to confuse me, intentionally aggravate my disabilities, and obstruct my responses, and access to this Court.
7. I state, under oath, that I have made both Magistrate Douglas N. Frazier, and Judge Charlene Edwards Honeywell, are fully aware of my dire health, and how stress aggravates my disabilities, and can cause my death, that I have told them these medical facts over, and over again in motions, and I have even filed a Motion for an Independent Medical Exam to prove to this Court that this case is killing me.
8. I state, under oath, that both Magistrate Douglas N. Frazier, and Judge Charlene Edwards Honeywell, fully aware of how their decisions can harm me, including causing a **Fatal** Stress-Caused Heart Attack, have required that I endanger my life, and aggravate my disabilities, suffering extreme pain, and irreparable harm, as the "*Price*" to have access to their Court.

9. I state, under oath, that both Magistrate Douglas N. Frazier, and Judge Charlene Edwards Honeywell, have went out of their way to aggravate my disabilities, and endanger my life, in the instant case, with their decisions, and conduct.
10. I state, under oath, that both Magistrate Douglas N. Frazier, and Judge Charlene Edwards Honeywell, have encouraged Attorneys for the Defendants in this case, to violate the ABA Model Rules for Attorneys, by intentionally, and habitually, lying about the actual material facts, such as;
- (a) Intentionally lying about what the Record of the Quasi-Judicial Lemon Law Hearing in Plaintiff's case says, which found Plaintiff Truck was far beyond being a Lemon, full of Manufacturer Defects.
- (b) When Plaintiff presented proof Defendant's Attorneys intentionally lied this Court did NOTHING encouraging the ongoing ABA Modal Rule Violations, and ongoing lies, by Defendant's Attorneys that fill this case.
- (c) Lying about the State Lemon Law Process giving General Motors a last chance to repair Plaintiff's Lemon Truck, and also lying, and not telling how General Motors never complied with that last chance Lemon Law ORDER.
- (d) Lying about the Sitel Corporation posing as Fake GM Officials at Plaintiff's Lemon Law Hearing.

- (e) Lying about an Ohio Court finding General Motors engaged in the EXACT same dishonest conduct, using the Sitel Corporation, and how the Ohio Court ORDERED General Motors to pay the victim, as the Ohio Court admonished General Motors for its dishonesty. Dishonesty this Court approves of when the victim is a helpless *Pro Se Litigant* being cheated by Attorneys.
- (f) This Court has encouraged the Defendant's Attorneys to harass the severely disabled *Pro Se Litigant* with fraudulent Rule 11 Motions lying about everything, from GM's State Attorneys, who Plaintiff submitted proof were found Guilty in Florida's Courts for harassing GM Lemon Law Victims, to lies about Plaintiff's truck, and the State Lemon Law Process.
- (g) Plaintiff presented this Court irrefutable proof Defendants Attorneys lied and this Court did NOTHING, once again encouraging the Attorneys for Defendants to continue their pattern of lies, and ABA Rule Violations, that were endangering Plaintiff's life, and aggravating his disabilities.
- (h) Defendants intentionally lied about the GM Sales ORDER, and when Plaintiff provided this Court with proof GM's Attorneys lied this Court issued a new Order admonishing the severely disabled *Pro Se Litigant*, clearly to intentionally aggravate my stress disabilities. [Emphasis added because this Court's conduct has been so extremely outrageous.]

11. I state, under oath, that this Courts extremely bias, and harassing, conduct, at the hands of Magistrate Douglas N. Frazier, and U.S. District Court Judge Charlene Edwards Honeywell, has intentionally caused me excessive, undue stress, that I would not have suffered in an impartial, honest Court.

12. I state, under oath, that the wrongful conduct of Magistrate Douglas N. Frazier, and U.S. District Court Judge Charlene Edwards Honeywell, giving free reign to Attorneys in their Court to lie, and freely violate the ABA Rules of Professional Conduct, when the victim is a *Helpless Severely Disabled Pro Se Litigant*, endangered my life, intentionally aggravating my disabilities, and causing heart pains, massive nerve, and stomach problems, loss of sleep for extended periods of time, and OBSTRUCTED my access to this Court, with the aggravation of my medical problems.

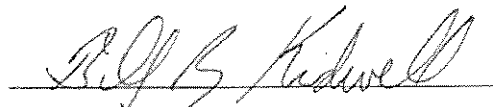
13. I state, under oath, that my Official VA Medical Records fully support my description of my medical condition, how my heart operates at only 43%, and how stress causes all the medical problems described herein.

14. I state, under oath, that according to my VA Doctors I MUST avoid all stress, because any stress, such as the stress of proceeding in this lawsuit, can cause a Fatal Stress-Caused Heart Attack.

15. I state, under oath, that my health has drastically declined since I filed the instant lawsuit, and I am now bed-bound most of the time, making it an impossible task, constantly endangering my life, for me to do legal work.

16. I state, under oath, that based on personal knowledge of my medical condition, and what the VA doctors have told me, I firmly believe that Magistrate Douglas N. Frazier, and United States District Court Judge Charlene Edwards Honeywell, are going to intentionally cause my death, with their hostility towards me, their obvious hate of *Pro Se Litigants*, and their strong bias, and extremely clear favoritism for Attorneys.
17. I state, under oath, that I am in extremely poor, dire, life-threatening health requiring me to be bed-bound most of the time, trying to avoid all this stress, Magistrate Frazier, and Judge Honeywell, are intentionally causing me.
18. I state, under oath, my dire health, and other reasons, as described herein has OBSTRUCTED my filing an Amended Complaint.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and beliefs.



Billy Ray Kidwell

5064 Silver Bell Drive

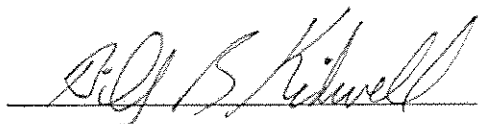
Port Charlotte, FL. 33948

941 627-0433

Executed on August 4, 2011 at Port Charlotte, Florida.

CERTIFICATE OF SERVICE

I, Billy Ray Kidwell, hereby certify that a true and correct copy of the attached was served on Defendants on this the 4th day of August 2011 by mailing a true and correct copy of same to their Attorney, Phyllis B. Sumner, King & Spalding LLP, 1180 Peachtree Street, NE, Atlanta, GA 30309-3521, and the law firm of Cole, Scott & Kissane, 9150 South Dadeland Boulevard, Suite 1400, P.O. Box 569015, Miami, FL. 33156.

A handwritten signature in cursive script, appearing to read "B.R. Kidwell", is written over a horizontal line.

Billy Ray Kidwell

EXHIBIT B

4. I state, under oath, that the instant case is so complex that I have no idea as to how to proceed.
5. I state, under oath, that I have sought to have this Court clarify issues and the Court has not explained to me, where it is understandable, what the Court wants in its Amended Complaint.
6. I state, under oath, that I lack the education to proceed in this case, and to draft the kind of amended Complaint that this Court Ordered.
7. I state, under oath, that I even if I could somehow draft such a Complaint that the work involved would endanger my life, and possibly cause a fatal heart attack.
8. I state, under oath, that my health has drastically deteriorated as a direct result of this Court's bias against me in this case.
9. I state, under oath, that my health has drastically deteriorated as a direct result of this Court's extremely bias policy of not requiring the Attorneys in this case to be honest, because I am a *Pro Se Litigant*, and this Court does not like *Pro Se Litigants*.
10. I state, under oath, that I suffered severe depression, and substantial heart pains, when this Court harassed, and admonished me, for lies by the Defendants Attorneys that caused this Court to issue a fraudulent judgment Order.

11. I state, under oath, that from my own personal years of experience in this Court that I will not receive any fairness, or Due Process, in this Court unless an Attorney is appointed to assist me.

12. I state, under oath, that I have done everything I can think of in an effort to comply with this Court's Order to amend my Complaint and that it is simply not possible for me to do so with my education, my dire health, and the dishonesty, and extreme bias in this case.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and beliefs.

A handwritten signature in cursive script, reading "Billy Ray Kidwell", is written over a horizontal line.

Billy Ray Kidwell

5064 Silver Bell Drive

Port Charlotte, FL. 33948

941 627-0433

Executed on August 4, 2011 at Port Charlotte, Florida.

CERTIFICATE OF SERVICE

I, Billy Ray Kidwell, hereby certify that a true and correct copy of the attached was served on Defendants on this the 4th day of August 2011 by mailing a true and correct copy of same to their Attorney, Phyllis B. Sumner, King & Spalding LLP, 1180 Peachtree Street, NE, Atlanta, GA 30309-3521, and the law firm of Cole, Scott & Kissane, 9150 South Dadeland Boulevard, Suite 1400, P.O. Box 569015, Miami, FL. 33156.

A handwritten signature in cursive script, appearing to read "Billy Ray Kidwell", is written over a horizontal line.

Billy Ray Kidwell

EXHIBIT C

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

2011 AUG 31 AM 11:37

U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS, FLORIDA

BILLY R. KIDWELL,
Plaintiff

v.

G. RICHARD WAGONER, et al.,
Defendants

Case No. 2:09-CV-108-FtM-36 DNF

NOTICE OF APPEAL

Plaintiff gives **NOTICE** that he appeals this Court's ORDER of August 9, 2011, served on him by Defendant's attorneys on August 11, 2011¹, to the Eleventh Circuit Court of Appeals in Atlanta Georgia. [See Exhibit A attached hereto.]

As of the present, which is August 29, 2011, United States District Court Judge Charlene Edwards Honeywell, who has been engaging in intensive harassment of the *Severely Disabled Pro Se Litigant*, purposefully aggravating Plaintiff's disabilities, has not bothered to provide Plaintiff with even *minimum* Due Process, such as serving her August 9, 2011 Court ORDER on Plaintiff.

¹ This Court has a pattern of issuing Court ORDERS, and not bothering to serve them on the *Pro Se Plaintiff* until two, or three days later, as sometimes evidenced by the Court's mail stamp on envelopes. Other times the Court's ORDERS appear to be timely stamped but just held at the Courthouse before mailing. This often cuts into Plaintiff's time limits to respond and is part of a long, documented pattern of discrimination against *Pro Se Litigants*, and the disabled in the Fort Myers District Court.

Plaintiff did, on August 26, 2011, receive service of a different Court ORDER from this Court titled "*Judgment in a Civil Case*" that is dated August 11, 2011.

Plaintiff gives **NOTICE** that he also appeals this Court's ORDER of August 11, 2011, recently served on him to the Eleventh Circuit Court of Appeals in Atlanta Georgia. [See Exhibit B attached hereto.]

Plaintiff has attached hereto the two Court ORDERS being appealed and marked them as Exhibits A and B.

Submitted by,

A handwritten signature in cursive script, appearing to read "B. Kidwell", is written over a horizontal line.

August 29, 2011

Billy Kidwell, *Pro Se*

5064 Silver Bell Drive

Port Charlotte, FL. 33948

941-627-0433

CERTIFICATE OF SERVICE

I, Billy Ray Kidwell, hereby certify that a true and correct copy of the attached was served on Defendants on this the 29th August 2011 by mailing a true and correct copy of same to their Attorney(s).



Billy Ray Kidwell

EXHIBIT A

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

BILLY R. KIDWELL,

Plaintiff,

-vs-

Case No. 2:09-cv-108-FtM-36DNF

G. RICHARD WAGONER, GM CEO sued in a personal capacity, PERCY N. BARMEVIK, GM Board of Directors sued in personal capacity, ERSKINE B. BOWLES, GM board of Directors sued in a personal capacity, JOHN H. BRYAN, GM board of directors sued in a personal capacity, ARMANDO M. CODINA GM board of Directors sued in a personal capacity, GEORGE M.C. FISHER, GM Board of Directors sued in a personal capacity, KAREN KATEN, GM Board of Directors sued in a personal capacity, KENT KRESA, GM Board of Directors sued in a personal capacity, ELLEN J. KULLMAN, GM Board of Directors sued in a personal capacity, PHILLIP A. LASKAWY, GM Board of Directors sued in a personal capacity, E. STANLEY O'NEAL, GM Board of Directors sued in a personal capacity, ECKHARD PFEIFFER, GM board of Directors sued in a personal capacity, CAROLYN WESTBERG, GM customer relationship manager sued in a personal capacity, and GENERAL MOTORS COMPANY,

Defendants.

ORDER

This case is before the Court upon periodic review. On February 11, 2011, Magistrate Judge Douglas Frazier entered an Order (Doc. 234) granting Plaintiff leave to file a Second Amended Complaint within thirty (30) days from the date of the order. Plaintiff filed a Notice of Interlocutory Appeal on March 2, 2011 (Doc. 235), which was dismissed by the Eleventh Circuit

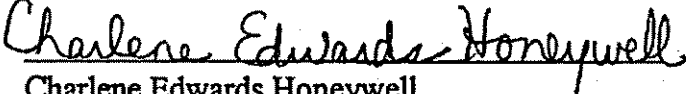
Court of Appeals on May 4, 2011 (Doc. 239). Thereafter, on July 19, 2011, Magistrate Judge Frazier directed Plaintiff to show cause in writing why this case should not be dismissed for failure to prosecute due to the Plaintiff's failure to file a Second Amended Complaint and failure to comply with a court order (Doc. 240). In that Order, Plaintiff was directed to file his Second Amended Complaint within fourteen (14) days of the date of the order (Doc. 240 at p.2).

As of the date on this Order, Plaintiff has failed to comply with the Court's Orders of February 11, 2011 and July 19, 2011. Plaintiff has not filed a Second Amended Complaint, nor has he requested another extension of time to file a Second Amended Complaint. The February 11th and July 19th Orders were mailed to Plaintiff's address of record and have not been returned to the Court. For failing to comply with the Court's Orders by filing a Second Amended Complaint and prosecuting this case, Plaintiff's action is subject to dismissal. *See* Fed. R. Civ. P. 41(b) and Rule 3.10, Local Rules of the Middle District of Florida. Accordingly,

It is hereby **ORDERED**:

1. The Complaint is **DISMISSED**, without prejudice.
2. The Clerk of Court is directed to terminate all motions and deadlines, enter judgment accordingly and close this case.

DONE AND ORDERED at Fort Myers, Florida, this 9th day of August, 2011.


Charlene Edwards Honeywell
United States District Judge

Copies: All Parties of Record

EXHIBIT B

**MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

BILLY R. KIDWELL,

Plaintiff,

-vs-

Case No. 2:09-cv-108-FtM-36DNF

G. RICHARD WAGONER, GM CEO sued in a personal capacity, PERCY N. BARMEVIK, GM Board of Directors sued in personal capacity, ERSKINE B. BOWLES, GM board of Directors sued in a personal capacity, JOHN H. BRYAN, GM board of directors sued in a personal capacity, ARMANDO M. CODINA GM board of Directors sued in a personal capacity, GEORGE M.C. FISHER, GM Board of Directors sued in a personal capacity, KAREN KATEN, GM Board of Directors sued in a personal capacity, KENT KRESA, GM Board of Directors sued in a personal capacity, ELLEN J. KULLMAN, GM Board of Directors sued in a personal capacity, PHILLIP A. LASKAWY, GM Board of Directors sued in a personal capacity, E. STANLEY O'NEAL, GM Board of Directors sued in a personal capacity, ECKHARD PFEIFFER, GM board of Directors sued in a personal capacity, CAROLYN WESTBERG, GM customer relationship manager sued in a personal capacity, and GENERAL MOTORS COMPANY,

Defendants.

JUDGMENT IN A CIVIL CASE

Decision by Court. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that pursuant to the Court's Order entered on August 9th, 2011, the Complaint is **DISMISSED**, without prejudice.

Date: August 11, 2011

SHERYL L. LOESCH, CLERK

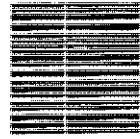
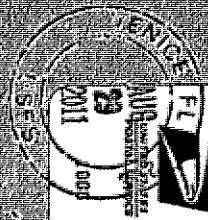
By: /s/ Samantha Blake, Deputy Clerk

c: All parties and counsel of record

DHRY K ANURSEN
5064 Silver Bell Drive
Port Charlotte, FL 33948
United States of America



United States District Court
Middle District of Florida
United States Courthouse & Federal
Building
2110 First Street, Room 2-194
Fort Myers, FL 33901



33901

U.S. POSTAGE
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EXHIBIT D

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

John Ley
Clerk of Court

For rules and forms visit
www.caf11.uscourts.gov

September 15, 2011

Sheryl L. Loesch
United States District Court
2110 1ST ST
FORT MYERS, FL 33901

Appeal Number: 10-14773-CC
Case Style: Billy Kidwell v. G. Wagoner, et al
District Court Docket No: 2:09-cv-00108-CEH-DNF

The enclosed certified copy of the Clerk's Entry of Dismissal for failure to prosecute in the above referenced appeal is issued as the mandate of this court. See 11th Cir. R. 41-4. Pursuant to 11th Cir. R. 42-2(c) and 42-3(c), when an appellant fails to timely file or correct a brief or record excerpts, the appeal shall be treated as dismissed on the first business day following the due date. This appeal was treated as dismissed on

Counsel and pro se parties are advised that pursuant to Fed.R.App.P. 25(a)(2)(A), a motion to set aside the dismissal and remedy the default "is not timely unless the clerk receives the papers within the time fixed for filing."

The district court clerk is requested to acknowledge receipt on the copy of this letter enclosed to the clerk.

Sincerely,

JOHN LEY, Clerk of Court

Reply to: Brenda F. Wiegmann, CC
Phone #: (404) 335-6174

Enclosure(s)

DIS-2CIV Letter and Entry of Dismissal

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 10-14773-CC

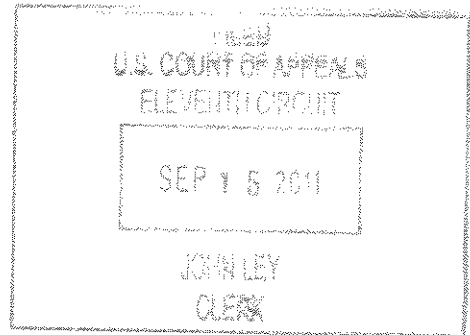
BILLY R. KIDWELL,

Plaintiff - Appellant,

versus

G. RICHARD WAGONER,
GM CEO sued in a personal capacity,
PERCY N. BARMEVIK,
GM Board of Directors sued in personal capacity,
ERSKINE B. BOWLES,
GM Board of directors sued in a personal capacity,
JOHN H. BRYAN,
GM board of directors sued in a personal capacity,
ARMANDO M. CORDINA,
GM board of directors sued in a personal capacity, et al.,

Defendants - Appellees.



Appeal from the United States District Court for the
Middle District of Florida

ENTRY OF DISMISSAL: Pursuant to the 11th Cir.R. 42-1(b), this appeal is hereby DISMISSED for want of prosecution because the appellant Billy R. Kidwell has failed to file an appellant's brief and record excerpts within the time fixed by the rules, effective September 15, 2011.

JOHN LEY
Clerk of the United States Court
of Appeals for the Eleventh Circuit

by: Brenda F. Wiegmann, CC, Deputy Clerk

FOR THE COURT - BY DIRECTION