

STATE OF MICHIGAN
IN THE SUPREME COURT

INTERNATIONAL OUTDOOR, INC.,

Case No. 166756

Plaintiff/ Appellant

v

COA Case No. 359082

Consolidated with

COA Case No. 359811

SS MITX, LLC, and LAMAR
ADVERTISING OF MICHIGAN, INC.

Oakland County Circuit Court

Case No. 2016-155472-CB

Case No. 2016-155489-CB

Respondents/ Appellees.

and

LAMAR ADVERTISING OF MICHIGAN, INC.,
d/b/a THE LAMAR COMPANIES, and SS MITX, LLC, d/b/a
SIMPLY SELF STORAGE

Plaintiffs/Appellees

v

INTERNATIONAL OUTDOOR, INC.,

Defendant/Appellant.

**INTERNATIONAL OUTDOOR, INC. BRIEF IN SUPPORT OF MOTION FOR
LEAVE TO FILE AMICUS BRIEF**

I. THIS COURT MUST ENFORCE APPELLANT’S RIGHT TO A FAIR TRIAL

A. The Right to a Fair Trial

Art. 1, § 20 of the Michigan Constitution reflects the Sixth Amendment of the U.S. Constitution, granting litigants the right to a fair trial.

Unfortunately, the trial judge, Judge Martha Anderson, committed egregious abuses of discretion in the underlying litigation¹ that culminated in the deprivation of Appellant’s Art. 1, § 20 right to a fair trial. Judge Anderson’s abuses of discretion include but are not limited to, continuing proceedings in the underlying litigation despite the trial court's lack of jurisdiction, relying on the affidavit of International Outdoor’s disgruntled former employee even after the affidavit was proven to be false, setting aside the order of the previous trial judge, and allowing Defendants/ Appellees to conduct discovery during the second trial but not allowing Appellant the same opportunity. In addition to violating the Appellant's constitutional rights, Judge Anderson’s abuses of discretion also resulted in the entry of the order against International Outdoor that eventually gave rise to the instant appeal.

This matter raises the constitutional question of whether the Sixth Amendment right to a fair trial – as adopted in Art. 1, § 20 of the Michigan Constitution – also encompasses judicial abuses of discretion. Stated differently, this case is about whether the insurance of fairness and prevention of judicial abuse² guaranteed by the right to a fair trial covers issues of judicial discretion in civil matters. The question of whether Judge Anderson’s abuses of discretion denied Appellant its Art. 1, § 20 of right to a fair trial is properly before this court because the “Michigan

¹ *International Outdoor, Inc. v. SSMITX, et al.* (hereinafter “underlying case” or “underlying litigation”) Michigan Court of Appeals Case No. 359082/ Consolidated with 359811; Oakland County Circuit Court Case No. 16-155472-CB/ 2016-155489-CB; currently pending before this court on motion for leave to appeal (Case No. 166756).

² *Detroit Free Press, Inc. v Recorder’s Court Judge*, 409 Mich at 384, *infra*.

Supreme Court is the only institution that determines the meaning of the Michigan Constitution[.]” *Mays v Governor*, 506 Mich 157; 954 NW2d 139 (2020). That being the case, this Honorable Court is undoubtedly responsible for determining whether the judicial abuse of discretion in a civil matter violates Art. 1, § 20 of the Michigan Constitution and robs a litigant of his or her right to a fair trial. Such a determination is vitally important because the right to a fair trial is a core tenant of American society and enforcement of that right protects both the adversarial process and the integrity of the judicial system. Whether the Appellant received a fair trial in the underlying litigation is subject to a plain error affecting substantial rights review. *People v Jackson*, 292 Mich App 583, 597; 808 NW2d 541 (2011).

Fair trials help establish the truth and are vital for everyone involved in a case. They are a cornerstone of democracy, help to ensure fair and just societies, and limit abuse by governments and state authorities. This Court explained the protections and assurances guaranteed by the constitutional right to a fair trial *Detroit Free Press, Inc. v Recorder’s Court Judge*:

*[T]he Sixth Amendment and Article 1, § 20, of the Michigan Constitution include **freedom from judicial or prosecutorial oppression, freedom from perjured testimony, and an assurance of basic fairness** because transactions occur openly and publicly. *Detroit Free Press, Inc. v Recorder’s Court Judge*, 409 Mich 364, 389; 294 NW2d 827 (1980) (emphasis added).*

Taking the Court’s perspective, the right to a fair trial guarantees that every judicial proceeding will have three basic components: truthful testimony, judicial/ prosecutorial justness, and “basic fairness”. *Id.* Due to Judge Anderson’s abuses of discretion, the second trial in the underlying case lacked all three.

After the first trial in the underlying case, the jury awarded International Outdoor damages in the amount of \$405,000 against the underlying defendant and Appellee, Lamar Advertising of Michigan (Lamar). The jury found that Lamar had tortiously interfered with International

Outdoor’s contract with co-defendant and co-Appellee, Simply Self Storage (SS MITX). Judge Wendy Potts entered an order on June 7, 2018, memorializing the jury’s verdict. (*Exhibit, June 7, 2018 Order*). On October 8, 2018 – after Judge Potts denied their motion for JNOV – Lamar appealed the June 7, 2018, order. (*Exhibit, Lamar’s Claim of Appeal*). On June 6, 2019, nearly a year later – and on the eve of the expiration of the statute of limitations – Defendants/ Appellees, Lamar and SS MITX, filed a motion for relief from judgment under MCR 2.612(C)(1)(c), claiming fraud, misrepresentation, and perjury. The motion was based primarily on the affidavit of former International Outdoor employee, Patrick Depa.

In his affidavit, Depa claimed that he witnessed Latif Z. “Randy” Oram (Randy Oram), CEO of International Outdoor, type, print, and sign the lease renewal letter in July 2016 and that Oram backdated the letter to December 2013 “so that he could falsely claim that the 2009 lease had been renewed on time³.” On June 19, 2019, Judge Martha Anderson⁴ ordered an evidentiary hearing on Defendants/ Appellee’s motion and provided for “limited discovery”... “for the sole purpose of conducting the deposition of Patrick Depa as well as the two depositions of the IT individuals [Harry Iskander & Frank Albin] sought by [Lamar & SS MITX] at the time of the hearing.” (*Exhibit, June 19, 2019, Order for Evidentiary Hearing*).

International Outdoor fought for additional discovery, filing several motions. After Judge Anderson denied its July 17, 2019, motion for additional discovery⁵, International Outdoor filed a

³ (*Exhibit, Affidavit of Patrick Depa, ¶5*). Both the trials of the underlying litigation turned on the question of whether Randy Oram timely renewed International Outdoor’s lease with SS MITX. Depa’s affidavit testimony not only directly contradicted Randy Oram’s assertion that he sent the lease renewal letter in December 2013 but also supported Lamar’s narrative that Oram committed fraud upon the trial court during the first trial. Judge Anderson found these allegations sufficient to order an evidentiary hearing on Lamar’s motion.

⁴ On December 28, 2018, the underlying case was reassigned to Judge Anderson after Judge Potts retired.

⁵ *Exhibit, Order Denying Motion for Additional Discovery*.

motion to dismiss or deny Appellee's motion for relief from judgment for lack of jurisdiction in the trial court. (*Exhibit, Motion to Dismiss for Lack of Jurisdiction*). Unfortunately, Judge Anderson denied International Outdoor's motion on August 7, 2019. (*Exhibit, August 7, 2019, Order*). Thereafter, International Outdoor filed an emergency application for leave to appeal Judge Anderson's order denying their motion to dismiss for lack of jurisdiction (Case No. 350180). (*Exhibit, International Outdoor Emergency Application for Appeal*).

On August 14, 2019, the Court of Appeals reversed Judge Anderson's order denying International Outdoor's motion to dismiss. (*Exhibit, August 14, 2019, COA Order*). International Outdoor's victory was very short-lived. On the exact same day – August 14, 2019 – Lamar filed an emergency motion for remand in the Court of Appeals (Case No. 345784). On August 15, 2019, the Court of Appeals granted Lamar's motion and remanded the underlying litigation back to the trial court while retaining jurisdiction. (*Exhibit, August 15, 2019, COA Order of Remand*). The August 15, 2019, order directed Judge Anderson to make findings of fact and a determination on the record in the underlying matter within 56 days. After holding two evidentiary hearings – on August 23 and October 18, 2019 – Judge Anderson entered an order granting Defendants/Appellee's motion for relief from judgment on December 19, 2019. (*Exhibit, December 19, 2019, Order*). Judge Anderson's order also set the matter for a new trial scheduled for March 30, 2020.

On January 7, 2020, International Outdoor filed a motion to enforce the Court of Appeals' remand order and reverse the trial court's order setting the matter for a new trial. The premise of International Outdoor's motion was that the trial court lacked jurisdiction to try the matter because the Court of Appeals retained jurisdiction and because the court was acting outside of the 56-day limitation given by the Court of Appeals when it rendered its ruling on Appellee's motion for relief from judgment. On February 10, 2020, the Court of Appeals granted in part International

Outdoor's motion to enforce the remand order to the extent the Circuit Court scheduled a new trial (having found the trial court exceeded the scope of the remand order). However, the Court of Appeals *sua sponte* dismissed the appeal as moot and remanded the case back to the trial court for a new trial. (***Exhibit, February 10, 2020, COA Order***).

On June 17, 2020, International Outdoor filed an application for leave to appeal Judge Anderson's order granting Lamar's motion for relief from judgment and scheduling the underlying matter for a new trial. International Outdoor's primary argument in its application for appeal was that Judge Anderson applied an incorrect evidentiary standard when deciding Lamar's motion and that she set aside the June 7, 2018 order without making a finding of fraud. (***Exhibit, International Outdoor Application for Leave to Appeal***). The Court of Appeals denied International Outdoor's application for leave on August 12, 2020. (***Exhibits, August 12, 2020, COA Order Denying Leave***)

After a failed application for leave to the Michigan Supreme court, delays due to the COVID-19 pandemic, and several motions filed by both parties, the second trial in the underlying litigation finally commenced on August 13, 2021. On August 19, 2021, the jury entered a verdict against International Outdoor and awarded Lamar tortious interference damages totaling over \$687,000. (***Exhibit, August 19, 2021, Order***).

In this civil matter, the discretionary abuses of a judicial officer compounded and ultimately resulted in an outcome that contravened the promises and assurances of both the U.S. and Michigan Constitutions. This Honorable Court's review is needed to avoid unjust and unnecessary consequences that will most certainly ensue when judges are allowed to trample on the constitutional rights of litigants.

A. Freedom from Judicial Oppression

Although the right to a fair trial includes freedom from judicial oppression, the record in the underlying litigation is rife with Judge Anderson's abuses of discretion. Of Judge Anderson's abuses of discretion, the most prevalent would have to be her exercise of jurisdiction over the underlying litigation when the trial court had no authority to do so; when she allowed Defendants/ Appellees discovery during the pre-trial phase of the underlying litigation but denied International Outdoor the same opportunity; and when she applied the wrong evidentiary standard in rendering her decision on Defendants/ Appellee's motion for relief from judgment.

1. Judge Anderson's Wrongful Exercise of Jurisdiction

On or about October 8, 2018, Defendants/ Appellees filed its claim of appeal in the underlying case (Case No. 345784), appealing the June 7, 2018 order. (*See Exhibit*). Lamar's filing triggered the MCR 7.208(A) restriction on the trial court from amending or setting aside the judgment or order appealed⁶. Despite the Court Rules' clear directive, on June 19, 2019, Judge Anderson entered order scheduling an evidentiary hearing on Lamar's motion for relief from judgment seeking to set aside the June 7, 2018 order. Judge Anderson's taking jurisdiction over Lamar's motion by ordering the evidentiary hearing and every proceeding she held and order she

⁶ MCR 7.208(A)

(A) Limitations. After a claim of appeal is filed or leave to appeal is granted, the trial court or tribunal may not set aside or amend the judgment or order appealed from except

(1) by order of the Court of Appeals,

(2) by stipulation of the parties,

(3) after a decision on the merits in an action in which a preliminary injunction was granted, or

(4) as otherwise provided by law.

In a criminal case, the filing of the claim of appeal does not preclude the trial court from granting a timely motion under subrule (B).

entered thereafter violated not only the Michigan Court Rules but also the Appellant's right to a fair trial.

Forcing a litigant to participate in judicial proceedings that contravene law and procedure is the very definition of judicial oppression. This is especially true when those proceedings are conducted in a biased and unfair manner. Judge Anderson flouted Michigan law from October 18, 2018, until the Court of Appeals granted her jurisdiction over the matter on August 15, 2019. Judge Anderson entered several orders while she did not have the authority to do so that had a lasting effect on the underlying matter. It was during this time that Judge Anderson denied International Outdoor's motion for additional discovery and its rightful motion to dismiss the Defendants/ Appellee's motion for relief from judgment, yet granted Defendants/ Appellee's motion for a forensic examination of Oram's computer.

For almost a year, International Outdoor was forced to participate in unlawful court proceedings. The Appellant suffered under the yolk of judicial oppression, suffering an egregious violation of its right to a fair trial. Prevention of this atrocity of justice happening again is why this Court's review is so desperately needed.

2. Denial of Discovery for International Outdoor

In Judge Anderson's June 19, 2019 order scheduling Lamar's motion for an evidentiary hearing, she also ordered limited discovery. International Outdoor was only allowed discovery to the extent of taking Patrick Depa's deposition. Judge Anderson denied International Outdoor's July 17, 2019 motion for additional discovery. It seemed that Judge Anderson based her decision – at least partially – on Depa's accusation that Oram threatened and tried to intimidate him. Of course, the Appellant was not allowed to present any evidence or testimony to the contrary.

Judge Anderson's refusal to allow International Outdoor discovery strikes at the core of our adversarial system. The purpose of litigation is to get to the truth of a matter through meaningful fact-finding in an adversarial system. Judge Anderson's refusal to allow International Outdoor its right to discovery did both parties to the underlying litigation a disservice because there was no fact-finding in the second trial. The ultimate question – whether Oram committed fraud upon the trial court – did not get answered. Defendants/ Appellants put on their proofs and International Outdoor was forced to do the best they could with what they had. It was like fighting with one hand tied behind their backs.

Judge Anderson's refusal to allow International Outdoor to engage in discovery in the underlying litigation is a glaring example of the type of judicial oppression that the right to a fair trial was intended to protect against. That being the case, this Honorable Court simply must weigh in on this issue and prevent miscarriages of justice of this magnitude from happening again.

3. Application of the Incorrect Evidentiary Standard

On June 17, 2020, International Outdoor filed an application for leave to appeal Judge Anderson's order granting Lamar's motion for relief from judgment and scheduling the underlying matter for a new trial. International Outdoor's primary argument in its application for appeal was that Judge Anderson applied an incorrect evidentiary standard when deciding Lamar's motion. Lamar's motion was heavily dependent on the affidavit testimony of Patrick Depa. In his affidavit, Depa claimed that he had personal knowledge of the fraud Oram committed on the trial court as it pertains to International Outdoor's lease renewal letter⁷. Based on Depa's allegations of fraud, Lamar sought to set aside the June 7, 2018, order. Lamar also took the position that, because Oram

⁷ See *Exhibit*, ¶5

did not timely send the lease renewal letter, International Outdoor did not have a valid lease with SS MITX.

Lamar sought relief from the June 7, 2018, order based on allegations of fraud, therefore, Lamar had the burden of establishing said fraud by clear and convincing evidence. *Foodland Distrib v Al-Naimi*, 220 Mich App 453, 458; 559 NW2d 379 (1996) (“The party claiming fraud had the burden of proof...[and] clear and convincing evidence is required to establish fraud...”). Additionally, because Lamar ultimately sought the reformation or rescission of International Outdoor’s lease with SS MITX, the trial court’s authority to render a decision on Lamar’s motion was dependent upon its showing of fraud by clear and convincing evidence. Judge Anderson’s choice to apply the “indicial of truthfulness” standard was not only incorrect, but it was also an abuse of discretion. Moreover, because the clear and convincing evidentiary standard imposes a higher burden of proof, Judge Anderson’s application of the wrong evidentiary standard was a violation of the Appellant’s right to a fair trial. *Foskett v Foskett*, 247 Mich App 1, 6; 634 NW2d 363 (2001). The courts in this State have defined the clear and convincing evidence standard as

*[E]vidence that produce[s] in the mind of a trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, **evidence so clear, direct and weighty and convincing as to enable [the trier of fact] to come to a clear conviction, without hesitancy, of the truth of the precise facts in issue.** Kefgen v Davidson, 241 Mich App 611, 625; 617 NW2d 351 (2000) (citations and internal quotation marks omitted); see also *In re Martin*, 450 Mich 204, 227; 538 NW2d 399 (1995).*

A plain reading of the language above makes it clear that the Courts apply the clear and convincing evidentiary standard in situations warranting a higher standard of proof. The underlying litigation would be a prime example of such a situation because not only does the Michigan judicial system favor finality in litigation, but Defendants/ Appellees alleged the commission of fraud as the reason to set aside the June 7, 2018 order.

The Court Rules already require that fraud must be plead with particularity, therefore, the imposition of a more stringent evidentiary standard was certainly reasonable. Moreover, Courts impose higher evidentiary standards in certain matters to protect the rights of litigants, to ensure that law and procedure are in harmony, and to guarantee that the ends of justice are served. None of the foregoing will be accomplished if judges are allowed to haphazardly ignore applicable law and apply made-up evidentiary standards as they see fit.

Judge Anderson applied a much lower evidentiary standard than what was required by law. Her decision was in opposition to long-standing legal precedent and certainly outside of the range of principled outcomes. *Ypsilanti Charter Twp v Kircher*, 281 Mich App 251, 275; 761 NW2d 761 (2008). Her abuse of discretion robbed the Appellant of its right to a fair trial because – in doing so – she denied International Outdoor the additional protections and assurances under the law that come with the imposition of a higher evidentiary standard. This Court’s review of this matter is warranted because the type of haphazard disregard for a litigant’s rights and protections under the law can neither be tolerated nor allowed to continue.

The Art 1 §20 right to a free trial is intended to hold judges to a standard of reasonable conduct and prevent judicial tyranny. Judge Anderson stepped completely out of the bounds of her authority and discretion in the underlying matter. Therefore, this Court’s review is most certainly required in order to check and prevent this sort of abuse of power from occurring again.

B. Freedom from Perjured Testimony

The right to a fair trial includes freedom from perjured testimony. In the underlying case, Judge Anderson relied on the affidavit of Patrick Depa, the former employee of Appellant, International Outdoor, Inc. Judge Anderson relied on Depa’s affidavit, first, as a reason for ordering an evidentiary hearing on Defendants/ Appellee’s motion for relief from the order entered after the

first trial of the underlying litigation⁸ and then as a reason to grant the underlying defendants' motion for relief from that order. (*See Exhibit*). However, Depa's affidavit was rife with lies, as proven by his testimony both at his deposition and at subsequent court proceedings. False statements made in an affidavit are perjury⁹; therefore – by basing her rulings on Depa's affidavit – Judge Anderson deprived the Appellant of his right to a fair trial. Depa's perjured testimony includes but is not limited to the following statements:

Declaration that he made the affidavit based on his personal knowledge

"I am a former employee of International Outdoor, Inc. I make this affidavit on the basis of my personal knowledge of the facts stated in this affidavit. If called upon to testify, I can and will confirm each of the statements made below."

Affidavit of Patrick Depa, Paragraph No. 1

Deposition of Patrick Depa

[Question]: "...Who wrote the affidavit? Who actually typed the words? Do you know?"

[Answer]: "I think it was - - it wasn't me."

*Deposition, August 17, 2019
(Exhibit, Transcript, Deposition of Patrick Depa, 55:13-15)*

Trial, August 17, 2021

[Question]: "Can you describe for the jury how you and Mr. LeVasseur went about making that affidavit?"

⁸ On June 7, 2018, Judge Wendy Potts entered an order awarding International Outdoor \$405,000 against underlying defendant and Appellee, Lamar. The court found that Lamar had tortiously interfered with International Outdoor's contract with co-defendant and co-Appellee, Simply Self Storage (SS MITX). (*See Exhibit*).

⁹ *Beecher v Anderson*, 45 Mich 543; 8 NW 539 (1881) ("Perjury is committed when a lawful oath is administered in some judicial proceeding to a person who swears willfully, absolutely, and falsely in a matter material to the issue or point in question...")

[Answer]: “Well, first of all, I’ve never done an affidavit before, had no idea really what it was.”

*Trial, August 17, 2021
(Exhibit, Transcript, Trial, August 17, 2021, 111:9-19)*

Trial, August 17, 2021

[Question]: “And so you knew that everything -- every word had to be honest and correct, right?”

[Answer]: “Never doing an affidavit before, I didn’t know that some of the general statements that I made would be taken out of and played around in some kind of conversation...” *Re-trial, August 17, 2021, p 127, ln 06-11.*

*Trial, August 17, 2021
(See Exhibit, 127:6-11)*

Evidentiary Hearing, August 23, 2019

[Question]: “But...the facts you stated in the affidavit [Paragraph 6, specifically] you did not have personal knowledge of, right?”

[Answer]: “I do not have personal knowledge...”

[Question]: “You can’t confirm all the statements in your affidavit, right?”

[Answer]: “Well you just brought up another - - six is inaccurate.”

[Question]: “Right, and that’s not the only one, right?”

[Answer]: “Not sure. There’s the Jim Faycurry one that I missed...”

*Evidentiary Hearing August 23, 2019
(See Exhibit, 94:7-19)*

Declaration that he had personal knowledge that Oram forged the lease renewal letter

“I have personal knowledge that the lease renewal letter was not sent in December 2013. I know this because I observed Randy Oram Type the letter in question on the computer in his office, print it, and sign it. This occurred in or about late July 2016. Mr. Oram backdated the letter to December 2013 so that he could falsely claim that the 2009 lease had been renewed on time.”

Affidavit of Patrick Depa, paragraph No. 5

Trial, August 17, 2021

[Question]: Did you see Mr. Oram scan in [the renewal letter] in July 2016?

[Answer]: “No, I did not.”

*Trial, August 17, 2021
(See Exhibit, 101:23-24)*

Declaration that the computer Oram used to create the fraudulent lease renewal letter was still in his office

“The computer Mr. Oram used to create the letter was still in his office when I left employment with International Outdoor in July 2018.”

Affidavit of Patrick Depa, paragraph No. 6

Evidentiary Hearing, August 23, 2019

[Question]: “You don’t have any idea whether the computer that was in Mr. Oram’s office when you left employment was the same computer as in 2016, two years earlier, right?”

[Answer]: “Correct. [Mr. Oram] could have changed it, or he could not have...”

[Question]: “[S]o... Paragraph 6 of your affidavit is inaccurate?”

[Answer]: “It’s inaccurate, yes.”

*Evidentiary Hearing August 23, 2019
(See Exhibit, 93:6-15)*

Deposition of Patrick Depa

[Question]: “You said in your affidavit in paragraph 6 that the computer Mr. Oram used to create the letter was still in his office when you left your employment with International Outdoor in July of 2018. How in the world do you know that?”

[Answer]: “I could tell you that - - that his computer was in the same location as it was when he - - when he created that letter, but if he would have changed it over a weekend or something I wouldn’t have known...”

[Question]: “So how did you swear under oath from your - - on the basis of your personal

knowledge that you can and will confirm each of the statements made below that the computer Mr. Oram used to create the letter was still in his office when you left your employment? You have no idea, do you?”

[Answer]: “I don’t. If it was the same computer, I don’t. It was a computer; I don’t know if it was the same computer.” *Deposition, p 105-106, ln 7-4.*

***Deposition, August 17, 2019
(See Exhibit, 105-106:7-4)***

There are many more instances and examples of declarations in Depa’s affidavit that were proven through evidence and subsequent testimony to be lies. Judge Anderson disregarded the contradictory proofs and relied on the declarations made by Patrick Depa. She especially relied on the assertions made in paragraphs Nos. 5 and 6:

5. I have personal knowledge that the lease renewal letter was not sent in December 2013. I know this because I observed Randy Oram type the letter in question on the computer in his office, print it and sign it. This occurred in or about late July 2016. Mr. Oram backdated the letter to December 2013 so that he could falsely claim that the 2009 lease had been renewed on time.

6. The computer Mr. Oram used to create the letter was still in his office when I left employment with International Outdoor in July 2018.

(See Exhibit, ¶¶ 5-6).

In large part, Judge Anderson based her decision to grant Defendants/ Appellee’s motion for relief from the June 7, 2018, order on the assertions made in paragraph No. 5 of Depa’s affidavit. Defendants/Appellants’ motion alleged that Randy Oram committed perjury and fraud in the first trial of the underlying litigation and offered Depa’s affidavit as proof of their allegation. ***(See Exhibit).*** Depa’s assertion that he witnessed Randy Oram type, print, and sign the lease renewal letter in or about July 2016 was sufficient for Judge Anderson to order an evidentiary hearing on Defendant/ Appellee’s motion¹⁰. ***(See Exhibit).***

¹⁰ Both the trials of the underlying litigation turned on the question of whether Randy Oram timely renewed International Outdoor’s lease with SS MITX. Randy Oram testified in both trials that he

As discussed above, Judge Anderson did not have the authority to order an evidentiary hearing regarding Defendants/ Appellees' motion because on or about October 18, 2018, Defendants/ Appellees appealed the June 7, 2018, order. Therefore, Judge Anderson ignored (and violated) the Court Rules when she ordered the evidentiary hearing on Defendants/ Appellee's motion. It was a blaring abuse of discretion. In her order, Judge Anderson granted Appellant very limited discovery, only allowing Oram to take the deposition of Patrick Depa. However, Defendants/ Appellees were allowed much broader discovery which included a forensic examination of Randy Oram's computer.

Defendants/ Appellees were allowed broader discovery based primarily on the allegations made in paragraph No. 6 of Depa's affidavit. His assertion that Oram still had the computer on which he drafted the alleged fraudulent lease renewal letter was sufficient for Judge Anderson to grant Defendant/ Appellee's motion for a forensic examination of Oram's computer and allow them discovery over and above the limited discovery originally granted in her order for an evidentiary hearing. Defendant/ Appellee's extended discovery included expert testimony by a forensic computer expert, Appellant was not allowed to present testimony from a computer expert nor was Appellant allowed expanded discovery.

As explained more fully above, Judge Anderson's denial of Appellant's right to discovery was an egregious violation of International Outdoor's right to a fair trial. Her reliance on the allegations in Depa's affidavit, even after the contents had been proven false and unreliable, was unreasonable and showed clear bias towards Defendants/ Appellees. This Court's review is needed to ensure that the point and purpose of the right to a fair trial remains in tact.

sent the lease renewal letter in December 2013. The assertion in Depa's affidavit was directly contradictory to this statement and Judge Anderson found it a sufficient basis to order an evidentiary hearing. (Despite her lack of jurisdiction to do so.)

C. Assurance of Basic Fairness

Finally, Article 1 §20 right to a fair trial carries an assurance of basic fairness. This factor is a culmination of the previous two and just ensures that all persons who come before the court are treated fairly and equally. As explained in great detail above, it is glaringly clear that Judge Anderson did not treat International Outdoor fairly or equally in the underlying litigation. This is a call to action to this Honorable Court to review this matter to prevent the abuses of discretion that led to International Outdoor being robbed of its right to a fair trial.