

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

PRECISION STANDARD, INC.,

Case No. 2024-CB-205934

Plaintiff,

-vs-

Hon. Victoria Valentine

ADP TAX SERVICES, INC.,

Defendant.

THE KEMP KLEIN LAW FIRM
Neal Nusholtz (P30223)
201 W. Big Beaver, Suite 600
Troy, Michigan 48084
(248) 740-5677
neal.nusholtz@kkue.com

MCDONALD HOPKINS PLC
Timothy J. Lowe (P68669)
Mark Steiner (P78817)
Mitchell A. Capp (P84197)
39533 Woodward Ave., Ste. 318
Bloomfield Hills, MI 48304
(248) 220-1338 / (248) 646-5075 [Fax]
tlowe@mcdonalhopkins.com

Counsel for Precision Standard, Inc.

Counsel for ADP Tax Services, Inc.

**OPINION AND ORDER REGARDING PLAINTIFF PRECISION STANDARD,
INC'S MOTION FOR RECONSIDERATION**

At a session of said Court held on the
12th day of December 2024 in the County of
Oakland, State of Michigan

PRESENT: HON. VICTORIA A. VALENTINE

The instant action is before the Court on Precision Standard Inc's Motion for Reconsideration pursuant to MCR 2.119(F). Plaintiff seeks reconsideration of the Court's Opinion and Order, which granted Defendant's ADP Tax Service Inc's Motion for Summary Disposition. The Court has reviewed Plaintiff's Motion and Defendant's Response,¹ and heard oral argument.

¹ See Order dated 9/26/24, which allowed Defendant to file a response to the Motion for Reconsideration.

Respectfully, Precision's Motion is denied for the reasons below and as outlined in Defendant's Response.

Precision Standard seeks reconsideration of this Court's Opinion and Order issued August 14, 2024, which granted Defendant's Motion for summary disposition under MCR 2.116(C)(8) and (10) as to Precision's two-count complaint, and which allowed Precision Standard 14 days to amend its complaint to allege a breach of contract claim.²

Generally, a motion for rehearing or reconsideration that merely presents the same issue ruled on by the court, either expressly or by reasonable implication, will not be granted. MCR 2.119(F)(3). A party moving for reconsideration "must demonstrate a palpable error by which the court and the parties have been misled and show that a different disposition of the motion must result from correction of the error." *Id.* "The grant or denial of a motion for reconsideration rests within the discretion of the trial court." *Charbeneau v Wayne Cty Gen Hosp*, 158 Mich App 730, 733 (1987). *See also Churchman v Rickerson*, 240 Mich App 223, 233 (2000).

The Court concludes that Precision Standard has failed to demonstrate a palpable error by which the Court and the parties have been misled and has failed to demonstrate that a different disposition must result from correction of any error. It is undisputed that Precision Standard had contracted with Defendant for which Defendant was to provide advice and to act for the benefit of Plaintiff with regard to Plaintiff's payroll tax obligation.³ Defendant was to perform complete payroll and tax services for which Precision Standard paid Defendant a total of \$250,419.91 for its services in 2020-2022.⁴

Precision Standard's complaint does not seek the return of funds. Rather, it seeks economic

² The Court records to date do not reflect that Precision Standard ever filed an Amended Complaint as permitted by Court.

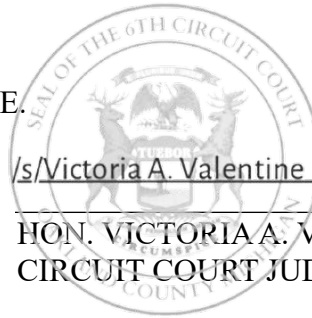
³ See Complaint, ¶ 8.

⁴ See Complaint, ¶¶ 5 and 6.

damages incurred by Precision Standard by hiring an accountant and an attorney to confirm it was payroll tax compliant.⁵ For these reasons, and for the reasons stated in Defendant's response and as Defendant's counsel argued at the hearing, the Court finds that Precision Standard fails to allege a duty separate and distinct from its contract with Defendant. Accordingly, Precision Standard Motion for Reconsideration of this Court's August 14, 2024, Opinion and Order is respectfully **DENIED.**

THIS IS A FINAL ORDER AND CLOSES THE CASE.

Dated: 12/12/24



/s/Victoria A. Valentine

HON. VICTORIA A. VALENTINE
CIRCUIT COURT JUDGE

⁵ See Complaint, ¶¶ 19, 20, 29, 31 and 32.