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STATE OF MICHIGAN

IN THE SUPREME COURT

DEBORAH LYNN FOSTER,

Plaintiff/Appellant/Petitioner,

SCT Docket No. 161892
COA Docket No. 324853
Circuit Court No. 07-15064-DM

vs.

RAY JAMES FOSTER,

Defendant/Appellee/Counter-Plaintiff/Respondent

APPELLANT'S RESPONSE TO MOTION FOR REHEARING OR CLARIFICATION OF OPINION

Respectfully Submitted:
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Appellee seeks rehearing or clarification of this Court's April 5, 2022 unanimous Opinion. Counsel's characterization of this Court's Opinion is inappropriate, inaccurate, and without merit. Appellee has made the same argument in his motion that he has made to this Court and to the Court of Appeals from the outset.

In its April 5, 2022 Opinion, this Court held that not all types of federal preemption deprive state courts of subject matter jurisdiction over a particular issue or cause of action. Appellee has not cited any authority in his motion that suggests otherwise. This Court also held that Defendant's attempt to appeal the trial court's order holding him in contempt was an improper collateral attack on the consent judgment of divorce. There is nothing about the April 5, 2022 Opinion that requires clarification. The fact that Appellee may not like the Court's Opinion is not a sufficient basis to grant the Appellee's motion.

Appellee argues that this Court ignored its first Opinion in this case. That argument is not valid. This Court held in its previous opinion that the consent judgment was preempted by federal law. Had the Defendant sought relief from the judgment in a timely manner, or had he appealed the judgment directly, the case would likely have ended there. He did not. Instead he argued that all instances of federal preemption deprive the state courts of subject matter jurisdiction and that the consent judgment also could be appealed at any time. This Court disagreed. Appellee argued that in a divorce action in which the disposition of military benefits is at issue, the matter should be bifurcated, and the military benefits issue adjudicated by a federal forum that does not exist. This Court was not persuaded by that argument. Appellant stands by the arguments made on her behalf to this Court both in writing and at oral argument, and by the decisions of this Court in this matter.

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Appellant respectfully requests that Appellee's Motion for Rehearing or Clarification of Opinion be denied, and that Appellant be awarded her reasonable attorney fees and costs incurred in having to review and response to Appellee's motion.

Respectfully submitted by:

/s/ Adam L. Kruppstadt

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Dated: May 4, 2022