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STATE OF MICHIGAN
IN THE SUPREME COURT OF APPEAL FROM THE COURT OF APPEALS
CAMERON, P.J., and HOOD and YOUNG.

JANICE SHERMAN,

Plaintiff-Appellant,

Supreme Court Case No: 167826

Court of Appeals Case No: 364393
Lower Court Case No: 22-000075-NF
Washtenaw County Circuit Court

vs.

PROGRESSIVE MICHIGAN INSURANCE COMPANY,

Defendant-Appellee,

and

JOHN DOE,

Defendant.

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PLAINTIFFS-APPELLANTS' REPLY BRIEF
ORAL ARGUMENT REQUESTED

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REPLY ARGUMENT 1

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ARGUMENT

In its response, Defendant Progressive doubles down on its prior requests to misapply relevant law. It continues to focus on asking the appellate courts, including the Supreme Court, for a *de novo* review. Defendant wants to relitigate the factual findings from the original motion for summary disposition to obtain a ruling rescinding the subject insurance policy. However, such an approach is plainly impermissible and contrary to established appellate standards. The remedy of rescission is reviewed on appeal for abuse of discretion. *Pioneer State Mut Ins Co v Wright,* 331 Mich App 396, 952 NW2d 586 (2020). "[T]he trial court's factual findings are reviewed for clear error, and a finding is clearly erroneous if the reviewing court is left with a definite and firm conviction that a mistake has been made." *Id.*

In fact, Defendant does not challenge the correct standard of review nor provide any argument to dispute that the lower court's ruling was well-reasoned and within the range of principled outcomes. Instead, Progressive fixates solely on proving the existence of a misrepresentation and asserting that rescission is the only permissible remedy. This position is fundamentally flawed. Courts have long recognized their discretion to craft equitable remedies, with rescission being neither the sole nor mandatory response to misrepresentation. In this case, the trial court acted well within its authority, and there was absolutely no abuse of discretion.

PROOF OF SERVICE
The Undersigned certifies that the forgoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on January 7, 2025.

☐ US Mail ☐ Fax
☐ Hand Delivered ☐ UPS
☐ Fed.Express ☒ E-File/E-Mail

Signature: /s/ Janel Savaya

Respectfully Submitted,

THE SEVA LAW FIRM

/s/ Pratheep Sevanthinathan

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[1] In accordance with MCR 7.212(B)(3), Plaintiffs' Reply Brief contains 318 words.