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

GENERAL MOTORS LLC;
GENERAL MOTORS COMPANY,

Plaintiffs,

No. 20-011998-CB
Hon. David J. Allen

v.

FCA US LLC; FIAT CHRYSLER AUTOMOBILES, N.V.;
ALPHONS IACOBELLI; JEROME DURDEN,

Defendants.

OPINION AND ORDER GRANTING ALL OF DEFENDANTS' MCR 2.116(C)(8) MOTIONS FOR SUMMARY DISPOSITION

Introduction

Plaintiff General Motors (GM) brought this civil action against defendants Fiat-Chrysler Automobiles (FCA), Alphons Iacobelli, and Jerome Durden in late September 2020, alleging a wide-ranging corporate conspiracy that ultimately defrauded GM throughout its 2015 collective bargaining process with the UAW. GM's 84-page, 202-paragraph First Amended Complaint (FAC) presents a captivating narrative examining the actions of over a dozen characters spanning over a decade, dating all the way back to the events of the Great Recession and attending financial crisis. The FAC filed with this Court represents the culmination of over four years of litigation in state and federal courts relating to the events described therein. However, even the most enthralling drama must eventually reach a conclusion. This one is no exception.

In late November 2020, defendants FCA, Iacobelli, and Durden filed motions for summary disposition pursuant to MCR 2.116(C)(4), MCR 2.116(C)(7), and MCR 2.116(C)(8), alleging in turn that this Court lacks subject matter jurisdiction, that prior judgment in federal court precludes recovery here, and that GM's claims fail as a matter of law. While this Court is

not fully convinced that the *Garmon* rule does not preempt subject matter jurisdiction under MCR 2.116(C)(4), because this Court finds that GM's claims fail as a matter of law, this Court will grant defendants' motions for summary disposition under MCR 2.116(C)(8).

Factual and Procedural Background

As noted above, GM's complaint provides a voluminous description of events. Although the full story is wholly riveting, only information germane to this Court's decision is included herein. GM's allegations begin over a decade ago during the financial crisis triggered by the Great Recession. (FAC ¶ 39). As the auto market descended into chaos, both GM and Chrysler sustained multiple consecutive quarters of losses, and were eventually forced to initiate Chapter 11 bankruptcy proceedings within a month of each other in early 2009. (FAC ¶ 41). Around the same time, Fiat also faced declining sales and a deepening economic crisis in Europe. (FAC ¶ 43). Fiat's CEO at the time, Sergio Marchionne, concluded that in order to survive the crisis, Fiat needed to find a partner and an opportunity to expand into the U.S. marketplace. (FAC ¶¶ 43–44). Sensing an opportunity with the GM and Chrysler bankruptcies, Marchionne suggested a deal with Chrysler as one of a series of strategic partnerships with other automakers. (FAC ¶ 44). Merging with Chrysler would enable Fiat to establish its sought-after domestic footprint within the U.S. auto market. Marchionne, on behalf of Fiat, sought a connection with UAW leadership in furtherance of the effort to acquire Chrysler. (FAC ¶ 45).

Complicating his efforts, the White House had required both GM and Chrysler to restructure according to a government-approved plan as a condition for receiving emergency loans in 2008. *General Motors LLC v. FCA US LLC*, 2020 WL 3833058, at *2 (E.D. Mich. 2020) (slip copy); FAC ¶ 42. In order to secure government support, Marchionne sought the support of the UAW, specifically reaching out to General Holiefiled, head of the UAW Chrysler

department. *Id.* In the midst of active discussions with the UAW, on March 30, 2009, the government demanded that Fiat and Chrysler reach an agreement within 30 days. (FAC ¶ 47). Fiat then began making demands specifying what it would need from a new Chrysler-UAW collective bargaining agreement (CBA). Specifically, Marchionne wanted the UAW to commit to supporting its "World Class Manufacturing" (WCM) program, which would break down the rigid union job classification system and give Chrysler more flexibility in assigning jobs to different workers. (FAC ¶ 48). Marchionne also wanted to use more temporary, inexpensive "Tier Two" workers in place of standard hourly "Tier One" workers. Tier Two workers are less senior employees than those in Tier One, and have a lower wage structure, health plan, and are provided a 401(k) plan rather than a pension, making them a cheaper labor source than Tier One workers. (FAC ¶ 49).

Fiat and Chrysler ultimately did reach an acquisition deal shortly thereafter – Fiat received a 20 percent stake and the right to purchase 40 percent of the 55 percent stake that the UAW (through the UAW Trust) owned in Chrysler. (FAC ¶¶ 52–53). Fiat gave the UAW a $4.6 billion note with nine percent interest and the right to appoint a director to Chrysler's Board of Directors. (FAC ¶ 53). Fiat obtained operating control of Chrysler, and Marchionne became its new CEO. (FAC ¶ 52). In its 2009 CBA with Chrysler, the UAW agreed to both implement WCM standards and lift any cap or restraint on Tier Two workers until 2015. (FAC ¶¶ 48–49). Shortly thereafter, according to the FAC, the bribery scheme at the center of these allegations began. (FAC ¶¶ 55–58).

According to the FAC, defendants Iacobelli and Durden (among other senior FCA executives), with the knowledge, direction and approval of Marchionne and on behalf of FCA, began the "long-running scheme of improper payments to certain UAW officials, funneled

through the [UAW-Chrysler National Training Center (NTC)] and through foreign financial institutions, to influence the collective bargaining process." (FAC ¶ 58). All told, this scheme diverted more than $4.5 million from the NTC in payments and gifts to UAW officials. (FAC ¶ 59). Iacobelli, in his plea agreement, described these illegal payments as an FCA "investment" seeking return through benefits, concessions, and advantages in its labor relationship with the UAW. (FAC ¶ 60).

According to GM, the UAW made several critical concessions to FCA because of these bribes that it proceeded to deny to GM. Two are pertinent to this action. First, GM alleges that when it sought to implement its own labor efficiency program, "Global Manufacturing System" (GMS), the UAW denied it such an opportunity even though GMS "would have been on par with WCM." (FAC ¶ 73). Second, both GM and Chrysler had been subject to 25 percent caps on Tier Two workers before their respective bankruptcies. (FAC ¶ 75). After bankruptcy in 2009, both companies' CBAs were amended to lift that cap, but both GM and FCA also agreed to reinstate the cap for the 2015 CBA. (FAC ¶ 75). Each company's 2011 CBA reiterated the same commitment. (FAC ¶ 75). However, UAW leadership privately assured FCA in a "side letter" agreement that it would not insist on reinstating the Tier Two cap in 2015 while publicly continuing to claim that the cap would be reinstated. (FAC ¶ 76). In anticipation of the cap's return, GM meticulously maintained a proportion of Tier Two workers below 25 percent. (FAC ¶ 75). By 2015, these assurances resulted in a massive difference – FCA maintained a workforce composition with 42 percent Tier Two employees, while only 20 percent of GM's workforce was comprised of Tier Two employees. (FAC ¶¶ 75–76).

GM's core allegation in the FAC is that the intent of the bribery scheme was **not only to buy peace with the UAW as FCA implemented its preferred labor changes, but also to**

impose higher costs on GM, making an eventual merger between FCA and GM more attractive over time. (FAC ¶¶ 80–82). Marchionne had initially sought a Fiat-GM merger, but after GM's Board of Directors rejected his proposal, he focused on completing the Fiat-Chrysler merger. (FAC ¶ 81). Once that was complete and Marchionne became the CEO of the newly combined entity FCA, he refocused on effecting a merger with GM. (FAC ¶ 90).

In attempting to merge with GM, Marchionne and FCA initiated "Operation Cylinder," which GM describes as a "takeover" plan. (FAC ¶ 98). Although GM again rejected a proposed merger, Marchionne responded with a major publicity effort, releasing a PowerPoint promoting the benefits of consolidation of the U.S. auto market, specifically claiming over $5 billion in savings flowing from a GM-FCA merger. (FAC ¶ 101). The already-existing bribery scheme was also essential to this plan – the UAW would need to approve any potential merger. (FAC ¶ 109). Ultimately, FCA did secure UAW support for the merger. (FAC ¶ 109).

Approximately every four years, each Detroit-based automaker undergoes a collective bargaining process with the UAW, which for its part increases its leverage by ensuring that each CBA expires at the same time on the same day, necessitating simultaneous negotiations. (FAC ¶ 116). While the UAW begins negotiations with each automaker in July, it ultimately selects one automaker as the "lead" or "target" company with which to negotiate the first CBA. (FAC ¶ 117). The UAW then uses pattern bargaining, a strategy where it exerts pressure on the other automakers to base their respective CBAs on the lead company's. *See* United Auto Workers, *Bargaining 101: Pattern Bargaining* (Oct. 25, 2015) https://uaw.org/pattern-bargaining/. The UAW typically selects the largest, best-performing automaker as the lead. (FAC ¶ 121). GM was selected as the lead during the most recent negotiations in 2011, and expected to be the lead again in 2015 "based on objective factors." (FAC ¶¶ 122–23). However, the UAW unexpectedly

announced it chose FCA as the lead, a position GM alleges was bought over time through the bribery scheme. (FAC ¶ 124). FCA ultimately paid the UAW double their demand. (FAC ¶ 133). The deal ultimately contained large, unanticipated wage increases for Tier One workers and a larger ratification bonus. (FAC ¶ 131). Despite GM's attempts to "resist" the use of the FCA agreement as the "pattern," the risk of a strike was too great to bear. (FAC ¶ 134). GM largely conceded to the FCA pattern agreement, which it alleges cost over $1 billion more than it anticipated when it reached its tentative agreement before the UAW chose FCA as the lead. (FAC ¶ 136).

GM also alleges that as a part of this conspiracy, FCA placed two informants within its labor organization. (FAC ¶ 137). In addition to Iacobelli, FCA also bribed Joseph Ashton, Vice President of the UAW's GM Department, to participate in the scheme. (FAC ¶ 138–39). Ashton's early role was essential to ensure that GM did not receive comparable labor structure programs to FCA and the related cost-saving advantages they carried. (FAC ¶ 139). He later resigned from that position and accepted the UAW Trust's appointment to sit on the GM Board of Directors, where he also allegedly gave confidential labor strategy information (including performance metrics and discussions of risk regarding Tier Two employees and wage changes) to UAW and FCA officials. (FAC ¶ 141–42). In July 2015, Iacobelli "abruptly resigned from FCA" and immediately sought employment with the GM labor relations department, claiming he left FCA due to disagreement with Marchionne about their respective visions for the future of FCA. (FAC ¶ 143). GM alleges that claim to be an outright lie, claiming instead that he left FCA to infiltrate GM and provide confidential GM information to other participants in the scheme. (FAC ¶ 143). At the time GM hired Iacobelli in January 2016, it was unaware of either his true motive for leaving FCA or of his involvement in the bribery scheme. (FAC ¶ 144).

In July 2017, the government began unsealing criminal indictments related to the bribery scheme. Iacobelli and Durden were the first to be indicted, with charges following against six others shortly thereafter. (FAC ¶ 154). After following the criminal proceedings and conducting a thorough investigation, GM finally brought RICO claims in the United States District Court for the Eastern District of Michigan. (FAC ¶ 157). Although requested, the Federal District Court declined to exercise supplemental jurisdiction over GM's state law claims, and ultimately dismissed the action pursuant to a Federal Rule 12(b)(6) motion for failure to state a claim on which relief could be granted. *General Motors LLC v. FCA US LLC,* 2020 WL 3833058, at *11 (E.D. Mich. 2020) (slip copy).

Shortly thereafter, GM filed the present action in this Court. FCA sought removal to the Federal District Court, claiming fraudulent joinder and seeking severance of the claims against the non-diverse parties, Iacobelli and Durden. However, the federal court rejected those arguments and remanded the case back to this Court.

The FAC alleges eight causes of action: (1) fraud with respect to FCA, (2) fraud by omission with respect to FCA, (3) fraud with respect to Iacobelli, (4) fraud by omission with respect to Iacobelli, (5) breach of fiduciary duty with respect to Iacobelli, (6) aiding and abetting a breach of fiduciary duty with respect to FCA, (7) unfair competition with respect to FCA, and (8) civil conspiracy with respect to all defendants. (FAC ¶¶ 160-202).

Standard of Review

In a motion for summary disposition pursuant to MCR 2.116(C)(8), the Court reviews the legal sufficiency of the pleadings based on the factual allegations in the complaint. *El-Khalil v. Oakwood Healthcare, Inc.*, 504 Mich. 152, 159 (2019). The Court must decide the motion on the pleadings alone, accepting all factual allegations in the complaint as true, along with any

reasonable inferences that can be drawn from them. *State ex rel. Gurganus v. CVS Caremark Corp.*, 496 Mich. 45, 62–63 (2014). However, conclusory statements unsupported by factual allegations are insufficient to support a cause of action. *Diem v. Sallie Mae Home Loans, Inc.*, 307 Mich. App. 204, 210 (2014). The motion should be granted only if no factual development could possibly justify recovery. *Feyz v. Mercy Mem'l Hosp.*, 475 Mich. 663, 672 (2006).

Generally, this standard is very easy to meet. However, in cases involving allegations of fraudulent activity, MCR 2.112(B) requires a heightened pleading standard. The circumstances constituting the fraud "must be stated with particularity." MCR 2.112(B)(1). Fraud cannot be lightly presumed; it must be clearly alleged, and "trial courts should ensure that these standards are clearly satisfied with regard to all of the elements of a fraud claim." *Cooper v. Auto Club Ins. Ass'n*, 481 Mich. 399, 414 (2008). Accordingly, it is fatal to a claim if a plaintiff does not adequately plead an element.

Discussion

1. Judge Cleland's Remand Opinion

As an initial matter, this Court finds it necessary to address Judge Cleland's opinion and order remanding the present case back to this Court from federal court. GM, in defending its allegations against C8 dismissal, relies heavily on Judge Cleland's conclusions that GM's fraud claims are "sufficient" and "not clearly invalid" and that GM's breach of fiduciary duty claim is likewise "not facially meritless" and "clear-cut." *General Motors LLC v. Iacobelli*, No. 3:20-cv-12668-RHC-APP, at 6–9 (E.D. Mich. Nov. 3, 2020) (Opinion and Order Granting Plaintiffs' Motion to Remand) (hereinafter *Cleland Opinion*). Plaintiffs' reliance on Judge Cleland's conclusions is misplaced for two reasons.

First, Judge Cleland evaluates GM's claims under the federal standard for fraudulent joinder, not MCR 2.116(C)(8), and certainly not in light of MCR 2.112(B)(1)'s heightened pleading standard. Fraudulent joinder requires the party seeking removal show that there is "no colorable basis predicting that [Plaintiffs] may recover." *Cleland Opinion* at 5. The Sixth Circuit has elaborated that the standard is "similar to, but more lenient than, the analysis applicable to a [Federal] Rule 12(b)(6) motion to dismiss." *Casias v. Wal-Mart Stores, Inc.*, 695 F.3d 428, 433 (6th Cir. 2012). Under the federal "plausibility" pleading standard, a complaint must already satisfy a higher bar than required under MCR 2.116(C)(8) to survive a Rule 12(b)(6) motion to dismiss in federal court. *See Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555–56 (2007); *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). By applying a "more lenient" standard than 12(b)(6), fraudulent joinder is similar to the traditional "notice" pleading required under MCR 2.116(C)(8). Yet MCR 2.112(B) copies nearly verbatim a heightened pleading standard for fraud in the federal rules, Rule 9(b). This federal counterpart also requires plaintiffs to plead the circumstances constituting fraud with particularity.

Given that language identical to MCR 2.112(B) heightens the pleading requirements for fraud under Rule 12(b)(6), which itself is already more stringent than the standard for fraudulent joinder (and MCR 2.116(C)(8)), then Judge Cleland was clearly analyzing GM's allegations under a standard of review far more lenient than Michigan law actually requires in this instance. This is not to say that GM must surpass the federal plausibility pleading standard to plead with particularity under Michigan law, but merely that it is incorrect to assert that "nothing more [than notice pleading] is required" of it in this case. (Pl.'s Resp. to Def.'s Mot. to Dismiss, at 12) (relying on unpublished opinion to assert that notice pleading is all that is required under Michigan law, even in fraud cases).

Second, even if this Court were convinced that Judge Cleland's decision applied the correct standard of review, the Michigan Supreme Court has made clear that "[a]lthough lower federal court decisions may be persuasive, they are not binding on state courts." *Abela v. General Motors Corp.*, 469 Mich. 603, 607 (2004) (citing *Winget v. Grand Trunk W. R. Co.*, 210 Mich. 100, 117 (1920)). Accordingly, this Court is not bound by Judge Cleland's construal of Michigan law under a federal standard more lenient than required, and will conduct its own analysis of the case according to MCR 2.116(C)(8) in light of MCR 2.112(B)'s heightened pleading standard for cases involving fraud.

2. *GM's Causes of Action*

GM's complaint advances eight causes of action: two for fraud, two for fraud by omission, two for breach of fiduciary duty, one for unfair competition, and one for civil conspiracy tied to all of the above. Each sounds in tort law. Since "the common law doctrine of unfair competition was ordinarily limited to fraud," among other things, *Upper Peninsula Power Co. v. Village of L'Anse*, 2020 WL 6683062, at *7 (Mich. Ct. App. 2020), it would follow that if there is no legally cognizable fraud claim presented, the unfair competition claim must also fall too. Furthermore, causation and damages are elements of every cause of action alleged here. Because each cause of action insufficiently pleads causation and damages, this Court will analyze the four fraud claims together with the unfair competition claim, the two claims for breach of fiduciary duty and the civil conspiracy claim.

The common-law doctrine of fraud is well-settled in Michigan. In order to establish a claim for fraud, GM must show the following elements:

> (1) defendant made a material representation; (2) that the representation was false; (3) when the defendant made the representation, the defendant knew that

> is was false, or made it recklessly, without knowledge of its truth and as a positive assertion; (4) the defendant made the representation with the intention that the plaintiff would act upon it; (5) the plaintiff acted in reliance upon it; and (6) the plaintiff suffered damage as a result.

Rooyakker & Sitz, P.L.L.C. v. Plante & Moran, P.L.L.C., 276 Mich. App. 146, 161 (2007) (quoting *Belle Isle Grill Corp. v. Detroit*, 256 Mich.App. 463, 477 (2003)).

Additionally, to plead fraud by omission, GM must also allege that a defendant had a legal duty to make the disclosure. *Hord v. Envtl. Rsch. Inst. of Mich.*, 463 Mich. 399, 412 (2000). Most important to this action, however, is that "[i]n a fraud . . . action, the tortfeasor is liable for injuries resulting from his wrongful act, whether foreseeable or not, *provided that the damages are the legal and natural consequences of the wrongful act. . . .*" *Barclae v. Zarb*, 300 Mich. App. 455, 479 (2013) (emphasis added). Likewise, a claim for breach of fiduciary duty requires a showing of "damages caused by the breach of duty." *Highfield Beach at Lake Michigan v. Sanderson*, 331 Mich. App. 636, 666 (2020).). The general rule in Michigan is that remote, contingent, or speculative damages cannot support a tort claim. *Health Call of Detroit v. Atrium Home & Health Care Servs.,Inc.*, 268 Mich. App. 83, 96 (2005) (citing *Sutter v. Biggs*, 377 Mich. 80, 86 (1966)). Even assuming that GM has adequately pled every other element in all its claims, this element is where GM's claims clearly fall short.

GM relies primarily on an agreement tentatively reached, though not actually made, to rather crudely assert that it incurred "billions of dollars in labor costs" it otherwise would not have in a counterfactual world where the FCA-UAW bribery scheme did not take place. However, this is, at best, a hypothetical harm. GM constructs its claim for damages on a foundation of speculation about what *would have* occurred not only absent FCA's bribery

scheme, but also contingent on the UAW's continued support of the tentative agreement. What *actually* occurred between the 2011 CBA and the 2015 CBA, according to the FAC, is that GM managed to reduce its average hourly wage by about one dollar per hour despite the latter CBA being patterned off FCA's agreement that had been tainted by the bribery scheme. (FAC ¶ 79 & Table). Given that inflation between 2011 and 2015 was five percent[1], this Court fails to see how a decrease in average wage structure over that same period makes GM anything but *better off* than it was previously. It hypothetically may not be *as well off* as it had hoped or planned to be, but that is not a legally cognizable damage.

Moreover, even assuming that this Court could legally recognize hypothetical damage, GM has not sufficiently alleged that FCA's bribery scheme was a proximate cause of that damage, as required under Michigan law. *See Barclae*, 300 Mich. App. at 479 (requiring the fraudulent actions to be the *legal* cause of damages) (emphasis added). In fact, GM acknowledges that it was "the economic force of pattern bargaining and threat of strike" that forced GM's concession to FCA's pattern agreement. (FAC ¶ 134). Whatever FCA's material misrepresentations about the 2015 CBA negotiations may have been, the force of pattern bargaining would have guided GM's hand regardless. The same is true for Iacobelli. Whatever material misrepresentations or omissions he may have made about the bribery scheme; GM has not sufficiently alleged he caused GM any harm through his participation in it. Further, Iacobelli joined GM *after* the 2015 CBA.

Similarly, where GM asserts that FCA directed UAW to deny certain competitive advantages to GM, the allegations are conclusory. In fact, GM barely alleges any defendant caused this denial. (FAC ¶ 69) (stating that Iacobelli ensured GM was denied benefits granted to

[1] U.S. Bureau of Labor Statistics, *CPI Inflation Calculator* (Input $1.00 in Nov. 2011 and Nov. 2015) (accessed Oct. 13, 2021) https://www.bls.gov/data/inflation_calculator.htm.

FCA by continuing to direct payments to UAW leaders, without information on instruction to do so). To the extent that they do allege causation, they still do not allege any real harm. As Judge Borman pointed out, the facts, as alleged, only "indicate that the UAW would not give most of the concessions at issue to any company that was not bribing its officials." *General Motors LLC v. FCA US LLC,* 2020 WL 3833058, at *9 (E.D. Mich. 2020) (slip copy). Furthermore, in the federal criminal companion case against FCA, the court found that a class of FCA's UAW employees were not proximately harmed by the bribery convictions as necessary for restitution under the Crime Victims' Rights Act. *United States v. FCA US LLC*, 2021 WL 3032521, at *6 (E.D. Mich. 2021) (slip copy). If FCA's employees, who were deliberately restructured so as to underpay them, cannot prove that FCA's bribery scheme harmed them on this theory of liability, GM's fraud claims must fail too, and as a result its unfair competition claim also fails.

As to GM's claims for breach of fiduciary duty, they suffer from the same infirmity as the fraud claims – GM cannot show that any of defendants' actions caused it any harm. Even ignoring that GM has not initiated any cause of action against Ashton and that it hired Iacobelli after the pertinent events of the 2015 CBA process concluded, any confidential information either may have passed to FCA in violation of their fiduciary duties as corporate officers still resulted only in the same hypothetical harm as the rest of FCA's scheme. Therefore, GM's claim against Iacobelli for breach of fiduciary duty and its claim against FCA for aiding and abetting a breach of fiduciary duty must fail as well.

Finally, since claims of civil conspiracy depend upon the existence and proof of separate, actionable torts, this cause of action must fail too. *See Advocacy Org. for Patients & Providers v. Auto Club Ins. Ass'n*, 257 Mich. App. 365, 384 (2003). Accordingly, all of GM's claims fail as a

matter of law because it has failed to adequately demonstrate that FCA caused it any actual, legally recognizable harm through its bribery scheme.

Jurisdiction and Discovery Motions

As a final matter, there are also pending before this Court two other outstanding matters. The first is Defendant FCA N.V.'s Motion for Summary Disposition pursuant to MCR 2.116(C)(1) and MCR 2.116(C)(8) which alleges that this Court lacks personal jurisdiction over FCA N.V. and that GM fails to adequately allege that FCA N.V. engaged in fraud, aiding and abetting of a breach of fiduciary duty, unfair competition or civil conspiracy. The second is Plaintiffs' Motion to Compel Discovery pursuant to MCR 2.309(C), MCR 2.310(C)(3) and MCR 2.313(A). Both of these pending motions are rendered moot by this Court's Opinion and Order Granting Defendants' Motions for Summary Disposition pursuant to MCR 2.116(C)(8).

It is well established that a court will not decide moot issues because it is the "principal duty of" courts "... to decide actual cases and controversies." *Federated Publications, Inc. v. City of Lansing*, 467 Mich. 98, 112 (2002), citing *Anway v. Grand Rapids R. Co.*, 211 Mich. 592, 610 (1920). The "Mootness Doctrine" is relied upon in order to avoid issuing opinions when there is no longer a controversy between the parties. *See In re MCI Telecom. Complaint*, 460 Mich. 396, 435 n. 13 (1999) (obligation of court to raise mootness on its own); *Tenneco Inc. v. Amerisure Mut. Ins. Co.*, 281 Mich. App. 429, 456 (2008) (deciding a moot issue is essentially issuing an advisory opinion). Due to the issuance of the Court's Opinion and Order Granting Defendants' Motions for Summary Disposition pursuant to MCR 2.116(C)(8) the above pending motions are found to be moot for consideration.

Conclusion

For the foregoing reasons, GM has not adequately alleged causation and harm as required by the causes of action it alleges. Therefore, Defendants' Motions for Summary Disposition under MCR 2.116(C)(8) are granted in full.

IT IS SO ORDERED. This is a Final Order and closes the case.

10/15/2021 /s/ David J. Allen

Date Honorable David J. Allen