

STATE OF MICHIGAN

IN THE CIRCUIT COURT OF THE COUNTY OF INGHAM

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MICHAEL A. COX, Attorney General for the State  
of Michigan, *ex rel* MICHIGAN DEPARTMENT OF  
ENVIRONMENTAL QUALITY,

Plaintiff,

ORDER

DOCKET NO. 89-64557-CE

HON. NETTLES-NICKERSON

v

REXAIR, INC., a Delaware Corporation,

Defendant.

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**PRESENT: HONORABLE BEVERLEY NETTLES-NICKERSON  
CIRCUIT COURT JUDGE**

This Court, having reviewed Michael A. Cox' (Plaintiff) Proposed Order dated May 10, 2006, pursuant to MCR 2.602(B)(3); Rexair's (Defendant) Objections thereto; Plaintiff's Response to Defendant's Objections to Proposed Order; Defendant's Reply to Plaintiff's Response to Defendant's Objections to Proposed Order; Defendant's Findings of Fact and Conclusions of Law; Defendant's Proposed Order thereto; granting Plaintiff's uncontested motion to file a response brief in opposition to Defendant's Findings of Fact and Conclusions of Law in excess of 20 pages and Defendant's Proposed Order thereto; Defendant's Reply to Plaintiff's Response to Defendant's Findings of Fact and Conclusions of Law and Proposed

Order thereto; all supporting documentation, correspondence, and being fully apprised of the issues, this Court dispenses with oral argument pursuant to MCR 2.119(E)(3) and states the following:

### INTRODUCTION

This Court finds Plaintiff's Motion for Relief from this Court's March 24, 2006 Order pursuant to MCR 2.612(C)(1)(f) dismissing with prejudice Plaintiff's Notice of Election to Proceed to Evidentiary Hearing is DENIED based on the reasons set forth and adopted by this Court in Defendant's May 23, 2006, Brief Findings of Fact and Conclusions of Law, incorporated herein.

In addition, this Court concurs with the facts provided in Defendant's proposed order and award Defendant costs and attorney fees. Specifically, Defendant states that:

[R]elying on ample evidence of MDEQ's misconduct, this Court properly exercised its broad power to control the dispute resolution process under the Consent Judgment, and its inherent authority to command the proceedings before it, when it issued its March 24, 2006 Order sanctioning MDEQ by dismissing MDEQ's Amended Motion for Dispute Resolution with prejudice and awarding Rexair its fees and costs.

### ORDER

**NOW, THEREFORE**, Plaintiff's Motion for Relief is **DENIED**; this Court's March 24, 2006 Order is **RE-AFFIRMED**; Defendant's Motion to Compel and for Sanctions is **DENIED**.

**IT IS SO ORDERED.**

In compliance with MCR 2.602(A)(3), this Court finds that this decision resolves the last pending claim and closes the case.

Dated: 7/26/06

**BEVERLEY NETTLES-NICKERSON**

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Hon. Beverley Nettles-Nickerson  
Circuit Court Judge

**PROOF OF SERVICE**

I hereby certify that I served a copy of the above Order upon the attorneys of record by placing said Order in an envelope addressed to each and placing same for mailing with the United States Mail at Lansing, Michigan, on \_\_\_\_\_, 2006.

\_\_\_\_\_  
Angela Morgan  
Judicial Assistant

cc: Robert P. Reichel  
John D. Pirich