ANSWER TO QUESTION NO. 15

There is nothing ethically improper about Caroline directly investigating the facts of the case, or her cruising Max's neighborhood to see what can be seen from the public road. There is no indication that Caroline had any contact or communication with Max during those trips, and thus MRPC 4.2, Communication with a Person Represented by Counsel, is not triggered. Caroline should have known, however, that her direct investigation could make her a witness in the case in which she is counsel of record. MRPC 3.7, Lawyer as Witness, forbids a lawyer from being an advocate at trial in a matter in which the lawyer is also a necessary witness on contested facts.   The extent of Max's injuries will clearly be contested, and if Caroline was the only one who observed Max, her testimony would be "necessary." Therefore Caroline has created a situation where she cannot be advocate at trial. Since Caroline's testimony would be consistent with the interests of her client, however, Caroline's firm is not disqualified under MRPC 3.7(b). Jackson should rectify this matter by reassigning the case to someone else in the firm.

The improper actions of Caroline and Parker are (a) falsely representing in the investigative report that the source was "anonymous," (b) claiming attorney-client privilege at deposition when the source of the information was requested, and (c) having Matt execute a false statement that he was the source of the information.   The applicable ethics violations are MRPC 3.4, Fairness to Opposing Party and Counsel (obstructing another party's access to evidence, concealing evidence, failing to comply with a reasonable discovery request, and requesting a person other than a client to refrain from voluntarily giving relevant information to another party), MRPC 4.1, Truthfulness in Statements to Others, (making a false statement of material fact or law to a third person), and MRPC 8.4, Misconduct, (violating the Rules, inducing another to violate the Rules, engaging in dishonesty and deceit, and engaging in conduct prejudicial to the administration of justice).   Caroline did not just withhold her identity as the source of the information about Max; she compounded the problem by arranging for Matt to lie. She allowed her personal interest in avoiding disclosure to interfere with her judgment on behalf of her client, in violation of MRPC 1.7(b), Conflict of Interest: General Rule. These are substantial violations that go to the core of the justice system. Jackson's duty to report Caroline to the Attorney Grievance Commission, pursuant to MRPC 8.3, Reporting Professional Misconduct, has been triggered.

In addition, Jackson and the counsel replacing Caroline should determine whether they have disclosure duties under MRPC 3.3,

Candor Toward the Tribunal. Michigan Ethics Opinions establish that discovery proceedings and depositions are "before the court" and trigger duties under MRPC 3.3. MRPC 3.3(a)(1) has not been violated, because no false statement of material fact has yet been
made -- Matt's sworn statement has not been presented.   MRPC 3.3(a) (2) has not been violated, because there has been no criminal or fraudulent act by Caroline's client. MRPC 3.3(a)(3) does not apply, because it addresses controlling legal authority. MRPC 3.3(a) (4) is not violated, because Matt's false affidavit has not yet been presented. MRPC 3.3(a) duties continue to "the conclusion of the proceeding." It is unclear whether the "proceeding" in this instance is Parker's deposition, or the entire discovery period, but in any event if the claim of privilege is challenged Parker's deposition is still open. It does not appear that Jackson has any affirmative duty to make any disclosure to the court. Caroline's conduct is not protected by MRPC 1.6, Confidentiality of Information, since it does not involve any communication between Caroline and her client. Further, it is in the interests of the client for Caroline's information to be disclosed in the matter. Jackson should reveal Caroline as the source of the information about Max's condition.