

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

Plaintiffs, Individually and on behalf of all those similarly situated, by and through their attorneys, JOHNSON LAW, PLC, state for their complaint state as follows:

1. Plaintiff SHANNON ADAMS own residential property located at 9087 Pierson, Detroit, Michigan.

2. Plaintiff GLENN BELCHER owns residential property located 12213 Whitehill St., Detroit, Michigan.

3. Plaintiff ARLETTE CALLAWAY owns residential property located at, 9700 Everts, Detroit, Michigan.

4. Plaintiffs CYNTHIA and CHARLES CHAPPELL own residential property located at 300 Lenox, Detroit, Michigan.

5. Plaintiff KAREN EAGLE owns residential property located at 489 Ashland, Detroit, Michigan.

6. Plaintiffs WILLIAM and FLORENCE FRANKLIN own residential property located at 8275 Artesian, Detroit, Michigan.

7. Plaintiffs WILLIE and PAULINE GEORDON own residential property located at 569 Lakewood, Detroit, Michigan.

8. Plaintiff FORTUNATA GUTIERREZ owns residential property located at 3800 Cabot St., Detroit, Michigan.

9. Plaintiff MATHEW JOHNSTON owns residential property located at 4899 Cooper St., Detroit, Michigan.

10. Plaintiff MARZETTA JONES owns residential property located at 5924 Iroquois St., Detroit, Michigan.

11. Plaintiff KIYA KRIVICKAS owns residential property located at 178 Newport St., Detroit, Michigan.

12. Plaintiff KANESHIA SMITH owns residential property located at 10821 Peerless St., Detroit, Michigan.

13. Plaintiff DORIS TORRES owns residential property located at 4063 Clippert St., Detroit, Michigan.

14. Plaintiff NEARLINE WILLIS owns residential property located at 591 Newport St., Detroit, Michigan.

15. Plaintiffs JOREL and SHELLARY WILSON own residential property located at 395 Lakewood St., Detroit, Michigan.

16. Plaintiffs, and proposed class members, are residents of the City of Detroit and, as to many, taxpayers. Plaintiffs have endured multiple backups of wastewater for many years, including raw sewage, onto and in their residences and have been made many empty promises that the problem will be “fixed.” For many of the proposed class, they lack resources to do proper and thorough sanitizing and cleaning after a backup event and are, consequently, forced to live in homes in which the smell of raw sewage and mold lingers until the next backup and pose related health risks to those living in such tainted homes.

17. As a result of the violation of their constitutional rights, unlawful confiscation of their property and gross negligence of the Defendants employees/agents, named Plaintiffs and class members’ property have been repeatedly inundated with wastewater, including raw sewage, from Defendants’ wastewater sewer systems, threatening and adversely affecting their health and well-being and destroying structural components, flooring, appliances, furnaces, hot water tanks, personal items and mementos, and otherwise wreaking havoc and despair.

18. Defendant GREAT LAKES WATER AUTHORITY (“GLWA”) is the operator of the regional wastewater conveyance and treatment facilities for Southeast Michigan communities, including a large section of the City of Detroit. Defendant GLWA realizes approximately a half a billion dollars (\$500,000,000) in revenue per year for the sale of sewer and water services.

19. Defendants John Does 1-10 are employees and/or agents of GLWA and/or DWSD and/or the CITY of DETROIT who were, or supposed to be, working during the rain event which began June 25 and continued through June 26, 2021.

20. Defendant DETROIT WATER & SEWERAGE DEPARTMENT (“DWSD”) is a public utility owned by the CITY of DETROIT and owns the Connor Pumping Station (“CPS”), 12244 East Jefferson, Detroit, and the Freud Sewage Pumping Station (“FSPS”), 12300 Freud Ave., Detroit.

21. Defendant CITY of DETROIT is a political subdivision of the State of Michigan and owns and or controls DWSD and otherwise collects and/or is entitled to the \$50 million in lease payments made by GLWA for the DWSD facilities it leases and operates.

22. Defendant GLWA was created in 2014 under a United States Bankruptcy Court Order issued as part of the City of Detroit bankruptcy proceedings. DWSD was essentially forced to give up control of assets in return for GLWA paying to the City of Detroit lease payments which total approximately \$50 million per year. As part of this deal, and pursuant to a Memorandum of Understanding and Lease Agreement, GLWA assumed operational control of CPS and FSPS; notwithstanding, DWSD and/or The City of Detroit retain the sole ownership interest in these pumping stations and are, therefore jointly liable for the claims stated herein.

23. GLWA staffs the CPS and FSPS with personnel, including, without limitation, Defendants John Does 1-10.

24. CPS consists of eight storm pumps and four sanitary pumps. During wet weather, and as needed, the eight storm pumps are designed and intended to handle wastewater from, residences in Detroit, including the area referred to as “Jefferson-Conner.”

25. FSPS has eight storm pumps which are intended to process wastewater that CPS cannot. In 2016, GLWA rated as “poor” these eight storm pumps. At that time, Pump 5 was out of service and the remaining seven were, according to GLWA, in need of rebuilding “in the near future.”

26. In the event the capacity of the CPS is exceeded during a storm event, the excess is routed to the Fox Creek and Ashland Relief Sewers which flow to the FSPS for holding until such time that CPS can accept additional flow; if the FSPS storage capacity is exceeded, its eight storm pumps then discharge the wastewater into a common discharge channel.

27. During heavy rainstorms, the design capacity of CPS and FSPS depend on the proper operation of their combined 16 storm pumps; in the event these pumps cannot be started or if they go offline, the capacity of these two pumping stations decreases and the likelihood of sewer back-ups increases.

28. According to GLWA, as of 2020, CPS was under study for major renovation or replacement given its outdated equipment and regular failures. For example, following area sewer back-ups and related flooding throughout Detroit in 2016 brought about by system failures, including at CPS, GLWA identified several “critical issues” relative to the operation and reliability of CPS including serious problems with storm pumps 1 and 8 and the need for vacuum priming improvements (necessary to start the pumps) for all pumps.

29. One of the operational deficiencies of CPS is the “siphon discharge” method to prime the eight storm pumps, which is required before they can be started and run at design

capacity. According to GLWA: “Since the CSO Facility became operational, the vacuum priming system [has] not work[ed] properly. This is due to the emptying of the discharge channel to the invert elevation of 79’-0”.” [a minimum depth of 91’0” being required]. Stated otherwise, the water level must be at least 91’ for the priming system to work at all. The lack water elevation of the discharge channel has regularly and repeatedly negatively impacted on the starting and operational efficiency of the CPS storm pumps and caused sewer backups throughout the City of Detroit.

30. Before the Conner Creek CSO Facility became operational in November 2005, the storm water discharge channels always had enough water at or above the level necessary for proper priming. Because of this well-known deficiency, (i.e. years of repeated and on-going problems associated with delayed or no storm pump start-up because of priming problems), in 2016 GLWA finally recommended the replacement of the priming systems to account for the lowered discharge channel and the resultant wastewater back-up problems caused by the delay in priming the storm pumps before or at a heavy storm event; however, this work has not been completed.

31. Defendants GLWA and/or DWSD have been on notice for many years that during heavy rain events that if all 16 pumps of these stations are not fully operational, back-up of wastewater is foreseeable and likely, which will lead to catastrophic losses to the residents and businesses.

32. The foregoing would be particularly catastrophic in an unusually, but foreseeably, heavy storm.

33. Additionally, notwithstanding their combined knowledge of system-wide deficiencies and the probability of future catastrophic wastewater back-ups, Defendants GLWA and/or DWSD failed to develop a comprehensive emergency contingency plan for the effective

disposal of wastewater during a heavy rain event, especially given the closing of what were, before the 1970's, typical ways of disposing of excess wastewater – by dumping into creeks, rivers, lakes, etc.

34. Several Detroit east side neighborhoods have been regularly decimated. For example, and without limitation, “Jefferson-Chalmers” has experienced regular, devastating flooding, yet its residents often lack insurance or other resources to clean or rebuild, thus resulting in further erosion of property values and, ultimately, loss of residences and health risks brought about by raw sewage back-up into properties.

35. On June 25, 2021 and continuing through June 26, heavy rains fell throughout Detroit. Supposedly as a result of its sewers being at capacity, several communities outside of Detroit attempted to shift wastewater to GLWA which, per agreement, it was to accept and properly dispose in such a way to minimize the threat of water back-up throughout the communities it charges for wastewater disposal.

36. Beginning either very late on June 25 or just after midnight, into the early morning hours of June 26, GLWA was not able to process the wastewater from areas of the City of Detroit because of admitted pump failures (at least 9 out of 16 storm pumps failed completely and there were problems with some or all of the remaining 7), gross negligence of its personnel, professed “operational failures,” power failure/shortages, inaccessibility to grounds or equipment, etc. GLWA's failures were so pervasive that supposed emergency personnel were hampered in their efforts to access the pump stations by flooding in and around the pump station grounds and nearby public and private roads.

37. For example, and without limitation, GLWA has admitted that both CPS and FSPS did not operate at “design capacity” during and after the rain event. According to GLWA's CEO,

Sue F. McCormick, the storm of June 25-26 was one that would likely only occur once every “thousand years”; certainly, then, the only hope the Plaintiffs and the class had to avoid the catastrophic losses was a fully and properly operational CPS and FSPS – i.e. ***all 16 pumps working at design capacity***. Stated otherwise, the CPS and FSPS pumping systems working at about 44% capacity doomed the Plaintiffs and class members to significant property damage and emotional trauma.

38. By way of further example, there were additional, admitted, multiple failures in Defendant GLWA’s equipment, facilities, systems and personnel that proximately caused and contributed to Plaintiffs’ losses and damages including, without limitation:

- failed external power supply to FSPS causing equipment and pump failures and malfunctions which negatively impacted pumping capacity;
- at least five out of eight pumps at FSPS and three out of eight at CPS never activated, meaning these pumping stations operated, at best, 50% of capacity;
- GLWA authority learned at about 6:52 a.m. on June 25 that the Ludden Substation, which supplied power to FSPS, was “damaged and out of service” thus interrupting full power and station operation; this problem was not corrected by the time the rain began to fall later and prevented the start-up of all pumps, as was required, which was exacerbated by the lack of an emergency contingency plan or adequate back-up power supply or on-site electrician;
- failed in-house power supply to CPS which negatively impacted pumping capacity, delayed attempts to prime and start pumps and hindered personnel from timely reaching critical components because of an inoperable remote-controlled security system and other gates which were chained shut, including a gate for vehicle entry;
- trouble timely starting and running pumps at both CPS and FSPS before and during the storm; at CPS this was mainly due to a failure of the power and priming system, the root of which is described above; at FSPS, there were multiple causes including power and the well-recognized fact the pumps

were in need of replacing at least since 2016; in all, only 5 out of 8 pumps could be operated at CSP and 2 out of 8 (though for whatever reason GLWA claims there are only 6 pumps at FSPS) at FSPS, meaning only 7 out of 16 pumps, 44%, ran at limited capacity;

- an electrician assigned to the CCP during the storm had apparently left CCP to assist at FSPS, but had to return to CCP because of mounting failures. Upon arrival, the electrician confirmed that only two pumps were running and he reset the circuit breaker for the house power. Well after the storm was under way, and apparently as a result of the circuit breaker reset, the third pump went online at 1:41 a.m., the fourth pump at 1:44 a.m. and the fifth pump at 1:53 a.m., all well after the storm had moved into and through the area. Allegedly, GLWA's Systems Control attempted to bring the sixth pump online; but multiple faults were experienced. An alleged concern with disrupting the five running pumps supposedly caused GLWA's Systems Controls to stop attempting to start the remaining and required three pumps.
- malfunction of a supposedly rebuilt priming pump at CPS, causing a failure which resulted in water being sprayed on a critical electrical circuit causing it to short which negatively impacted pumping capacity;
- the activation and running of five of six pumps (the sixth pump could not be started at all) was delayed until after 2:00 a.m. by which time massive wastewater back-up had occurred in GPP;
- GLWA had only 3 personnel assigned for both CCPS and FSPS, meaning it was woefully under-staffed for the predicted and readily apparent rain event; this under-staffing meant personnel were forced, as generally described above, to travel between CPS and FSPS as emergencies arose, thus delaying needed, critical repairs, all of which were delayed and negatively impacted pumping capacity at CCP and FSPS.

39. The wastewater backups began around midnight and continued through 2:00 a.m., precisely at the time CCP and FSPS experienced the system failures generally described above.

40. In addition to the admitted equipment failures, GLWA authority failed to properly recognize, or willfully disregarded, the weather data available to it. For example, CEO McCormick claimed in a news conference that only 1 ½ inches of rain had been “predicted”;

GLWA does not, like the general public, have to rely on the evening news to get weather information. In reality, GLWA, either through its own equipment or that owned by DWSD to which it has access, has real-time rain fall data through precipitation measuring devices located to the west and south of the City of Detroit. Additionally, GLWA has Doppler radar in its facilities which provides data to predict the size and intensity of a storm. Stated otherwise, had GLWA utilized the data available to it, it would have fully recognized the intensity of the approaching storm and could have, but failed to, invoke measures to ready and start all pumps at CPS and FSPS.

41. As a direct and proximate result of the operational malfunctions and failures of the CPS and FSPS, as generally described herein, devastating wastewater back-ups occurred throughout the City of Detroit causing, in some instances, over eight feet of water in basements, and the consequent destruction and damage to structures (foundations, walls, ceilings, etc.), loss of appliances, furnaces, boilers, hot water tanks, washers, dryers, etc., and the destruction of personal property, some of which held significant sentimental value. Plaintiffs also sustained sickness, injury, emotional trauma and mental anguish.

42. It is estimated that the losses caused by the Defendants' breaches of duty and violation of Plaintiffs' rights secured by the Michigan Constitution likely exceed \$100 million.

43. Defendants and each of them, have known for many years of the infrastructure deficiencies of the combined wastewater disposal systems based on previous wastewater back-up events. It was, therefore, foreseeable to each of the named Defendants that during heavy rain events, especially where CPS and FSPS experienced multiple failures as they repeatedly had in the past, wastewater, including raw sewage, would backup on and into the residential and business properties and as a direct, proximate and foreseeable result, would cause damage to real and personal property and personal injury and emotional trauma and mental anguish.

44. Notwithstanding this knowledge, Defendants, collectively or individually, failed to take appropriate remedial action to the failing sanitary and storm sewer systems thus making catastrophic flooding more likely to occur and foreseeable, especially when, as during the subject event, there are multiple failures of equipment, systems and personnel.

45. Named Plaintiffs, individually and on behalf of all other individuals similarly situated, sustained losses and damages to both personal and real property and, as to the individually named Plaintiffs and those whom they represent, sustained injury and related emotional trauma and mental anguish associated with the damage or loss of real property valuable personal items and the destruction of their homes.

46. Plaintiffs bring this action on behalf of themselves and others constituting a class of persons who suffered property damage (real and personal), loss of use of the property and mental and emotional trauma on and after June 26, 2021 because of the improper taking of their property described herein.

47. The amount in controversy exceeds \$25,000 and this matter is otherwise within the jurisdiction of this Court.

CLASS ACTION ALLEGATIONS

48. Plaintiffs request certification pursuant to MCR 3.501 on behalf of a proposed class defined as follows: all individuals who, from June 25, 2021 to the present, who sustained loss and/or damage to property and physical injury, emotional trauma and/or mental anguish as a result of the wastewater backup which began June 25, 2021 and continued through June 26, 2021 occurring in the City of Detroit.

49. The number of class members is sufficiently numerous to make class action status the most practical method for Plaintiffs and those they represent to secure redress for injuries

sustained and to obtain class-wide equitable injunctive relief regarding any future unconstitutional taking of their property.

50. There are questions of law and fact raised by the named Plaintiffs' claims common to those raised by the potential class members they seek to represent. Such common questions predominate over questions affecting only individual members of the class.

51. The violations of law, breaches of duty and resulting damages alleged by the named plaintiffs are typical of the legal violations and harm suffered by all class members. Plaintiff class representatives will fairly and adequately protect the interests of the plaintiff class members.

52. Plaintiffs' counsel is unaware of any conflicts of interest between the plaintiff class representatives and those class members which they seek to represent with respect to the matters at issue in this litigation. Furthermore, the class representatives will vigorously prosecute the suit on behalf of the class members and the class representatives are represented by experienced counsel.

53. Plaintiffs are represented by attorneys with substantial experience and expertise in complex and class action litigation involving personal and property damage, like those alleged herein.

54. Plaintiffs' attorneys have identified and investigated the potential claims in this action and have committed sufficient resources to represent the class.

55. The maintenance of a class action will be superior to other available methods of adjudication and will promote the convenient administration of justice.

56. Prosecution of separate actions by individual members of the class could result in inconsistent or varying adjudications with respect to individual members of the class and/or one or more of the defendants. Furthermore, the prosecution of separate actions could result in the

filing of thousands upon thousands of individual lawsuits which could overwhelm this Court and put a strain on its resources.

57. Defendants have acted or failed to act on grounds generally applicable to all plaintiffs, including proposed class members, thus necessitating declaratory and injunctive relief of the class.

**COUNT I - VIOLATION OF ART 10 § 2, MICHIGAN CONSTITUTION -
UNCONSTITUTIONAL TAKING OF PROPERTY**

58. Plaintiffs incorporate by reference paragraphs 1 through 57 as if fully set forth herein.

59. Art. 10, §2 of the Michigan Constitution requires that “[private] property shall not be taken for public use without just compensation.” Thus, “[any] injury to the property of an individual which deprives the owner of the ordinary use of it is equivalent to a taking and entitles him to compensation. So, partial destruction or diminution of value of property by an act of government, which directly and not merely incidentally effects it, is to that extent an appropriation.” *Peterman v State Department of Natural Resources*, 446 Mich 177, 190; 521 NW 2nd 499, 506-07 (1994).

60. Defendants, and each of them, had a duty to refrain from the unlawful taking/destruction of Plaintiffs’ property without just and due compensation.

61. The action of Defendants, individually or collectively, in failing to properly dispose of the wastewater which fell on June 25 through June 26, 2021, and thereby caused foreseeable backing up of wastewater and consequent intrusion in and upon Plaintiffs’ property and proximately damaged the property of Plaintiffs thus amounting to an unlawful taking. Stated otherwise, Defendants’ actions, collectively and individually, was a substantial cause of the

damage to Plaintiffs' property and consequent damage to and decline in its value and resulting injury and mental anguish.

62. The foregoing occurred all the while Defendants, and each of them, were aware of the operational and infrastructure deficiencies and need for repairs and design and infrastructure upgrades to address, global warming and increased rain falls, of which Defendants have been aware for at least 20 years.

63. In addition, or in the alternative to the foregoing, Defendants GLWA, DWSD and/or City of Detroit have been aware for many years, and no later than 2016, of the operational and equipment problems at CPS and FSPS, yet chose to not to effectively remedy these multiple problems.

64. Instead, Defendants, and each of them, ignored the problems and put the onus on correcting the regular and repeated flooding on the residence and business owners of the City to correct (e.g. install sump pumps, back-flow valves and other recommendations which Defendants know would be completely ineffective for the massive backups regularly experienced by named Plaintiffs and proposed class members).

65. Defendant GLWA, for example, for many years disregarded and/or down-played the problems associated with priming and starting the storm pumps at CPS and the need for replacement of the pumps at FSPS, but knew that most of the pumps at these locations would likely not become fully operational during a heavy storm, when they were most needed.

66. Likewise, no later than 2016, GLWA knew of the operational deficiencies of all storm pumps at FSPS and their likelihood to fail when needed most – when CPS reached “full” capacity and began to divert wastewater to it.

67. While laudable to work towards the complete separation of storm and sanitary sewer systems, so to prohibit the dumping of untreated wastewater into, for example, the local waterways, all Defendants have known for years that limitations on dumping of wastewater to limit pollution necessarily means more wastewater remains within their respective sewer systems thus greatly increasing the risk of backups into residences and businesses during heavy rain events. Stated otherwise, Defendants have chosen to use the basements of Plaintiffs' properties as holding tanks for wastewater and sewage until its/their deficient wastewater disposal systems can catch up with the storm flow.

68. These and other acts were direct acts against Plaintiffs' property because it was foreseeable and likely that wastewater backups through areas of the City, but especially the east side.

69. Defendants, and each of them, have for many years been aware of the dangers posed by the infrastructure deficiencies of CPS and FSPS, disregarded them, and took affirmative action which exacerbated the problems.

70. Defendants GLWA and DWSD and The City of Detroit owed a duty to Plaintiffs, including proposed class members, to properly dispose of wastewater through their sewer systems and to otherwise not cause the intrusion of wastewater in and upon Plaintiffs' property.

71. Defendants and each of them breached the foregoing and other duties to Plaintiffs as recited herein resulting in the unlawful and unconstitutional taking of Plaintiffs' property.

72. As a direct, proximate and foreseeable result of Defendants' unconstitutional taking of Plaintiffs' property, Plaintiffs have experienced a substantial loss of value and the ordinary use and enjoyment of their properties.

73. As a further direct, proximate and foreseeable result of Defendants' unconstitutional taking of Plaintiffs' property, Plaintiffs have been forced to incur remedial and repair costs which, upon information and belief, are in the tens of millions of dollars; Defendants, and each of them, should be adjudged liable for these losses and the judgment should be entered against them, jointly and severally, for the damage caused. Defendants' actions and/or inactions, directly and foreseeably caused harm to plaintiffs and proposed class members; this harm would not have occurred but for Defendants' actions and/or inaction.

74. Additionally, Plaintiffs and proposed class members have suffered from adverse health problems associated with exposure to toxins and bacteria contained in the backup waste water and the related emotional trauma and mental anguish associated with living within structures that have been repeatedly and regularly filled with wastewater and sewage which has backup and a result of Defendants' wrongful conduct and violation of Plaintiffs', including proposed class members, violation of constitutional rights.

75. As a result of Defendants' wrongful taking and appropriation and damage to Plaintiffs' property, Plaintiffs, individually and as a class, have sustained damages for which defendants, and each of them, are responsible. These damages include, and without limitation:

- a. direct loss and damage to real property;
- b. direct loss and damage to personal property;
- c. diminution in the value of real property caused by not only the direct damage but as a result of these properties now being deemed less valuable as a result of the flood damage and/or the fact that such flood damage could and will likely occur in the future;
- d. injury as a result of exposure to toxins, bacteria and other harmful constituents in and transported by the wastewater and sewage which Defendants caused to be backed up into Plaintiffs' homes and residences, which damages are on-going and will likely continue into the foreseeable future;

- e. mental anguish, emotional trauma and the upset caused by Plaintiffs' exposure to toxins and or bacteria (and consequent threat to health) and loss and/or damage to property, much of which had sentimental value which damages are on-going and will likely continue into the foreseeable future;
- f. any other damages to which the trier of fact finds plaintiffs have suffered, including without limitation, exemplary and/or punitive damages and attorney fees and interest.

COUNT II – TRESPASS AND NUISANCE

76. Plaintiffs incorporate by reference Paragraphs 1-75 as if set forth fully herein.

77. Defendants, and each of them, had a duty to refrain from interfering with Plaintiffs' use or enjoyment of their land by a physical intrusion, set in motion by the government or its agents.

78. Defendants, and each of them, breached this duty in that they, individually or collectively, created an unlawful condition, wastewater including raw sewage, which caused a physical intrusion in and upon Plaintiffs' property which was a direct result of the failure of their respective sewer systems.

79. As a result of Defendants' trespass and nuisance, Plaintiffs, individually and as a class, have sustained damages for which Defendants, and each of them, are responsible. These damages include, and without limitation:

- a. direct loss and damage to real property;
- b. direct loss and damage to personal property;
- c. diminution in the value of real property caused by not only the direct damage but as a result of these properties now being deemed less valuable as a result of the flood damage and/or the fact that such flood damage could and will likely occur in the future;
- d. injury as a result of exposure to toxins, bacteria and other harmful constituents in and transported by the wastewater and sewage which Defendants caused to be backed up into Plaintiffs' homes and residences, which damages are on-going and will likely continue into the foreseeable future;

- e. mental anguish, emotional trauma and the upset caused by Plaintiffs' exposure to toxins and or bacteria (and consequent threat to health) and loss and/or damage to property, much of which had sentimental value which damages are on-going and will likely continue into the foreseeable future;
- f. any other damages to which the trier of fact finds plaintiffs have suffered, including without limitation, exemplary and/or punitive damages and attorney fees and interest.

COUNT III – GROSS NEGLIGENCE

80. Plaintiffs incorporate by reference Paragraphs 1-79 as if set forth fully herein.

81. Defendant John Does 1-10 are employees and/or agents of Defendant GLWA who were working at one or both pumping stations on June 25 and/or 26, 2021 or at Defendant GLWA's Systems Control – Central Services Facility.

82. Defendant John Does 1-10, collectively and/or individually, had a duty to properly monitor the operating systems to assure all storm pumps at CPS and FSPS were and remained fully operational during the rain event, to take certain action once the rain event became reasonably certain and to otherwise refrain from engaging in grossly negligent acts and/or omissions.

83. Defendants John Does 1-10 and the management of GLWA knew, or should have known, of the impending heavy rain event and prepared and readied the storm pumps and brought them to a fully operational status.

84. Defendant John Does 1-10 and GLWA breached the foregoing duties in one or more of the following ways:

- a. willfully disregarded the rain measurement data that was available via the GLWA precipitation measuring devices;
- b. willfully disregarded the need to, well in advance of the storm, prime so to properly engage the storm pumps at CPS but, instead, waited until the storm had advanced to the east side of Detroit and GPP to attempt to prime and start;

- c. willfully disregarded long-standing maintenance issues with the storm pumps at CPS and FSPS such that as the storm advanced, only 7 out of 16 storm pumps were operational and most of those that were operational did not function and peak capacity;
- d. willfully failed, notwithstanding weather data justifying same, to draw down plant and reservoirs so that the wastewater run-off from the storm could be properly disposed of;
- e. willfully disregarding the weather data, real-time or otherwise, and the need for additional staffing at CPS and FSPS to address and handle the operational issues, malfunctions, etc. that were foreseeable with a storm of its magnitude;
- f. willfully failed to address the operational issues that did or were likely to arise as a result of the documented issues concerning the in-house electric service at CPS and FSPS and the problems that were likely to arise as a result of a disruption in electric service, especially in light of non-existent or marginal emergency contingency plan and insufficient electrician staffing; and
- g. willfully failing to implement emergency plans to address access to critical components in the event of a power failure.

85. When Defendants engaged in the above acts/omissions, Defendants knew, or should have known, that their failure to act would likely cause injury and damage to Plaintiffs.

86. In addition or in the alternative to the foregoing, John Does 1-10 were grossly negligent in their failure to timely test the storm pumps on a regular basis so to be prepared for the type of storm which began on June 25 which, given the age of the pumps and related equipment, meant it was probable that failures would occur during the storm which would likely lead to a catastrophic damages being sustained by those whose wastewater sewer service was provided by Defendants.

87. As a direct, proximate and foreseeable result of the gross negligence of Defendants John Does 1-10, Plaintiffs have sustained damages for which Defendants John Does, and each of them, are responsible. These damages include, and without limitation:

- a. direct loss and damage to real property;
- b. direct loss and damage to personal property;
- c. diminution in the value of real property caused by not only the direct damage but as a result of these properties now being deemed less valuable as a result of the flood damage and/or the fact that such flood damage could and will likely occur in the future;
- d. injury as a result of exposure to toxins, bacteria and other harmful constituents in and transported by the wastewater and sewage which Defendants caused to be backed up into Plaintiffs' homes and residences, which damages are on-going and will likely continue into the foreseeable future;
- e. mental anguish, emotional trauma and the upset caused by Plaintiffs' exposure to toxins and or bacteria (and consequent threat to health) and loss and/or damage to property, much of which had sentimental value which damages are on-going and will likely continue into the foreseeable future;
- f. any other damages to which the trier of fact finds plaintiffs have suffered, including without limitation, exemplary and/or punitive damages and attorney fees and interest.

COUNT IV – REQUEST FOR INJUNCTIVE RELIEF

88. Plaintiffs incorporate by reference Paragraphs 1-87 as if set forth fully herein.

89. Defendants have regularly and repeatedly used the properties of the residents of the City of Detroit as, effectively, holding tanks for wastewater, including raw sewage, during storms while their dilapidated and outdated pumping facilities attempt to “catch up.”

90. Unless Defendants are prohibited and otherwise enjoined from engaging in such conduct/omissions in the future, Plaintiffs, and the proposed class they represent, are justifiably fearful and apprehensive that Defendants will continue engaging in the type of misconduct generally described herein and, consequently, Plaintiffs will be forced to continue to hold wastewater, including raw sewage, within their properties until such time that Defendant properly,

and as required, takes and otherwise disposes of the wastewater and raw sewage through its wastewater disposal system.

91. Unless Defendants are prohibited and otherwise permanently enjoined from engaging in such conduct/omissions in the future, Plaintiffs will suffer irreparable harm in the form of personal injury, mental anguish and emotional trauma and damage to and loss of both real and personal property caused by Defendants forcing wastewater on and into their properties.

WHEREFORE, Plaintiffs request:

- A. a judgment be entered in their favor in whatever amount to which they are found to be entitled by the jury;
- B. exemplary and/or punitive damages for the violation of their rights secured by the Michigan Constitution and/or for Defendants' acts and/or omissions as described above;
- C. that this Court certify this as a class action consisting of all residents of the City of Detroit who sustained injury or damage as a result of the wastewater backups commencing June 25, 2021 and continuing through the present;
- D. an awarded interest, attorney fees and costs;
- E. Defendants be permanently enjoined from using Plaintiffs' properties as holding tanks for wastewater and otherwise order Defendants to make the necessary repairs, improvements, modifications and/or design changes to their wastewater disposal systems; and
- F. any other relief, equitable or otherwise, to which Plaintiffs are found to be entitled.

Respectfully submitted,

JOHNSON LAW, PLC

By: /s/ Paul F. Doherty
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Date: July 19, 2021

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

SHANNON ADAMS; GLENN BELCHER;
ARLETTE CALLAWAY; CYNTHIA CHAPPELL;
KAREN EAGLE, WILLIAM and FLORENCE FRANKLIN;
WILLIE and PAULINE GEORDON; FORTUNATA GUTIERREZ;
MATHEW JOHNSTON; MARZETTA JONES; KIYA KRIVICKAS;
KANESHIA SMITH; DORIS TORRES; NEARLINE WILLIS and
JOREL and SHELLARY WILSON,
Individually and on behalf of all others similarly situated,

Plaintiffs,

21-
Hon.:

-CZ

vs

GREAT LAKES WATER AUTHORITY;
JOHN DOES 1-10;
DETROIT WATER & SEWERAGE DEPARTMENT, and
CITY of DETROIT;

Defendants,
jointly and severally

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VEN R. JOHNSON (P39219)
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JURY DEMAND

Plaintiffs, by and through their attorneys, JOHNSON LAW, PLC. and hereby demand a
trial by jury pursuant to MCR 2.508(B).

Respectfully submitted,

JOHNSON LAW, PLC

By: /s/ Paul F. Doherty

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