



DETROIT  
**Water & Sewerage  
Department**

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**Office of General Counsel**

Water Board Building  
735 Randolph Street  
Detroit, MI 48226

Phone 313-964-9421  
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detroitmi.gov/dwsd

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**MEMORANDUM**

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**TO:** The Honorable Board of Water Commissioners  
City of Detroit Water and Sewerage Department

**FROM:** Choi T. Portis  
Deputy General Counsel  
City of Detroit Water and Sewerage Department

**DATE:** July 1, 2018

**CC:** Debra N. Pospiech  
Chief General Counsel  
City of Detroit Water and Sewerage Department

**RE:** *Detroit Water and Sewerage Department Litigation Report*

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The cases identified below are currently pending litigation matters.



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**IN-HOUSE COUNSEL LITIGATION**

#	Plaintiff	Defendant	Court	Assigned Judge	Attorney	Type of Action	Brief Facts	Claims	Status of Litigation
1	DWSD	Heritage Manor	WCCC	Daniel Hathaway	Jacob Bahri	Collections	Defendant is a nursing home and rehabilitation center who has failed to pay water and sewerage bills for several accounts. The suit was filed to collect \$286,582.86.	Breach of implied contract	Case is currently in the discovery phase.
2	DWSD	Alma Almont, LLC, et al	WCCC	Megan Maher Brennan	Jacob Bahri	Collections	Defendants are realty companies who have failed to pay water and sewerage bills for several accounts. The suit was filed to collect \$26,349.87.	Breach of implied contract	Case is currently in the discovery phase.
3	Anthony Hampton	DWSD	WCCC	Martha Snow	Nikkiya Branch	Personal Injury	Plaintiff alleges that on June 4, 2017 he was traveling near 5323 Larchmont when he allegedly fell into a catch basin missing its cover.	Negligence	Case is currently in the discovery phase.
4	Michael Freeman	DWSD	WCCC	Muriel Hughes	Jacob Bahri	Personal Injury	Plaintiff alleges that on June 21, 2017, he was riding his bike on Burlingame street near Darymple when he allegedly struck an uncovered catch basin with his bike causing him to lose control of his bike, and be ejected from the bike.	Negligence	Case is currently in the discovery phase.
5	Terri Warren-Davis	DWSD	WCCC	Sheila Ann Gibson	Nikkiya Branch	Personal Injury	Plaintiff alleges that on May 13, 2016, she was walking across southbound Woodward at Erskine when a manhole cover exploded, emitting hot steam which allegedly caused second degree burns to Plaintiff's ankle and lower right leg	Negligence	Case is currently in the discovery phase.

#	Plaintiff	Defendant	Court	Assigned Judge	Attorney	Type of Action	Brief Facts	Claims	Status of Litigation
6	Mary Crawford	DWSD	WCCC	Muriel Hughes	Jacob Bahri	Personal Injury	Plaintiff alleges that on June 22, 2016, she was riding her bike along Jefferson crossing Riopelle when she a DWSD employee, driving a DWSD vehicle, allegedly hit her.	Negligence	Case is currently in the discovery phase. A motion for summary disposition will be filed.
7	DWSD	DSRN Real Estate, LLC	WCCC	John Murphy	Jacob Bahri	Collections	Defendant is a realty company who has failed to pay water and sewerage bills for several accounts.	Breach of implied contract	Case is in the discovery phase.
8	Nellie Wardrop	DWSD	WCCC	Daniel Hathaway	Choi Portis	Personal Injury	Plaintiff alleges that on December 3, 2016, she was walking on Cass near Forest when she tripped on a storm sewer cover that was elevated more than 2 inches above the adjoining pavement when she fell.	Negligence	Case is in the discovery phase.
9	Kimberly and Eric Gilewski	DWSD	WCCC	Daphne Means Curtis	Nikkiya Branch	Personal Injury	Plaintiffs allege that on June 18, 2016, they were riding their mopeds on eastbound Jefferson when Kimberly's moped fell into a deep hole causing her to crash. She was ejected from the moped and propelled further east on the roadway. She alleges that she sustained sprains, lacerations, injuries to her face, neck, back, shoulders, left knee, hand and a possible traumatic brain injury. Eric alleges that he witnessed the injury sustained by his wife and sustained emotional injuries.	Negligence	Case is in the discovery phase.
10	DWSD	St. James Nursing & Physical Rehabilitation Center	WCCC	David J. Allen	Choi Portis	Collections	Defendant is a nursing home and rehabilitation center who has failed to pay water and sewerage bills for several accounts. The suit was filed to collect \$105,823.03	Breach of implied contract	Case is in the discovery phase.
11	Detroit Invest Corp	DWSD	WCCC	Martha Snow	Choi Portis	Basement Backup Claim	Plaintiff alleges that on November 29, 2016, its apartment building sustained damage resulting from a water and sewerage backup.	Negligence	Case is in the discovery phase

#	Plaintiff	Defendant	Court	Assigned Judge	Attorney	Type of Action	Brief Facts	Claims	Status of Litigation
12	Gene Mo	DWSD	WCCC	Brian Sullivan	Choi Portis	Injunctive Relief	Plaintiff filed an action for emergency injunctive relief to prevent a water shutoff at the property.	Injunctive relief	Entered into a payment arrangement wherein Plaintiff paid DWSD 10% of the delinquent bill and has agreed to pay a certain amount per month in addition to the current billings. The agreement was solidified in a stipulated order entered by the court. The case will remain open until Plaintiff pays off the delinquency.
13	Donna Pitts	DWSD	36 <sup>th</sup> District Court	David Kleparek	Jacob Bahri	Small claims	Plaintiff filed action for alleged breach of contract related to DWSD's payment plan program.	Breach of contract	Currently filed in small claims court. Motion pending to move to the general civil division of the court.
14	DWSD	AIC Corporation	WCCC	Daniel Hathaway	Choi Portis	Collections	Defendant owns an apartment building and has failed to pay water and sewerage bills. The suit was filed to collect \$44,841.86.	Breach of implied contract	Case is in the beginning stages. Defendant has not filed an answer. Defendant's answer is due July 17, 2018.

## OUTSIDE COUNSEL LITIGATION

#	Plaintiff	Defendant	Court	Assigned Judge	LawFirm/Attorney	Type of Action	Brief Facts	Claims	Status of Litigation
1	Nicola Binns, et al	DWSD	Michigan Court of Appeals	--	Miller Canfield/ Sonal Mithani	Class Action	Class Plaintiffs challenge the constitutionality of DWSD's drainage charge.	DWSD's drainage charge violates Michigan's Headlee Amendment	Currently awaiting a decision from the Court of Appeals.
2	Detroit Alliance Against the Rain, et al	DWSD	Michigan Court of Appeals	--	Miller Canfield/ Sonal Mithani	Class Action	Class Plaintiffs challenge the constitutionality of DWSD's drainage charge.	DWSD's drainage charge violates Michigan's Headlee Amendment	Currently awaiting a decision from the Court of Appeals.
3	Trappers Properties, LLC	DWSD	WCCC	John A. Murphy	Miller Canfield/ Sonal Mithani	Class Action	Class Plaintiffs challenge the constitutionality of DWSD's drainage charge	DWSD's drainage charge violates Michigan's Headlee Amendment.	Stayed pending the Court of Appeals decision in the Binns and DAART cases.
4	Fort Street Business Park II, LLC	DWSD	WCCC	John A. Murphy	Miller Canfield/ Sonal Mithani	Individual Plaintiffs	Plaintiffs who opted out of the Michigan Warehousing case challenge the constitutionality of DWSD's drainage charge.	DWSD's drainage charge violates Michigan's Headlee Amendment	Stayed pending the Court of Appeals decision in the Binns and DAART cases.
5	Red Cap Properties, LLC	DWSD	WCCC	John A. Murphy	Miller Canfield/ Sonal Mithani	Individual Plaintiffs	Plaintiffs challenge the constitutionality of DWSD's drainage charge.	DWSD's drainage charge violates Michigan's Headlee Amendment	Lawsuit was filed January 8, 2018. Plaintiff never served the complaint and the Court dismissed the case for non-service on April 12, 2018.
6	Jeeva, Inc	DWSD	WCCC	Edward Ewell, Jr,	Miller Canfield/ Sonal Mithani	Individual Plaintiffs	Plaintiff challenges the constitutionality of DWSD's drainage charge.	DWSD's drainage charge violates Michigan's Headlee Amendment	Lawsuit was recently filed. The complaint is due on July 19, 2018.

#	Plaintiff	Defendant	Court	Assigned Judge	LawFirm/Attorney	Type of Action	Brief Facts	Claims	Status of Litigation
7	Abraham Greer, et al	DWSD	WCCC	Sheila Ann Gibson	Williams Acosta (Avery Williams)	Individual Plaintiffs	Plaintiff alleges inverse condemnation and gross negligence against DWSD.	DWSD's sewage disposal system was defective, DWSD knew and failed to remedy the issue	Awaiting hearing on Defendant's Motion for Partial Summary Disposition.