



DETROIT
**Water & Sewerage
Department**

Office of General Counsel

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MEMORANDUM

TO: Honorable Board of Water Commissioners
DWSD

FROM: Debra N. Pospiech
Chief General Counsel, DWSD

DATE: October 31, 2018

RE: 2 Year Post-Bifurcation In-House Litigation Status Report

Since January 1, 2016, internally, the DWSD Office of General Counsel has litigated 27 cases to completion. Of those cases, 4 cases were in active litigation prior to the bifurcation, and 23 were filed after. Of the 27 cases, 12 have been settled and 15 have been dismissed. Of the 15 dismissed cases, 8 were dismissed pursuant the court granting DWSD's motion for summary disposition.

Excluding the *Beasley* settlement, DWSD and GLWA have paid out a total of \$447,150. GLWA paid out \$158,650 on 4 cases and DWSD paid out \$288,500 on 7 cases. The average payout for DWSD was \$41,214, the outliers were a six-figure settlement and a settlement for under \$5,000.

The following spreadsheet provides further details regarding cases we have defended since date of bifurcation.

#	Plaintiff	Defendant	Court/Case number	Pre/Post Bifurcation Incident	Type of Action	Brief Facts	Disposition	Settlement Funding Source
1	Yul Walker	City of Detroit	WCCC 15-013965-NO	Pre	Personal Injury	Plaintiff alleged he fell into a storm sewer missing its cover. The Detroit Fire Department extracted Plaintiff from the hole.	Settled	GLWA
2	Jonathan Kenniburg	City of Detroit	WCCC 15-012041-NO	Pre	Personal Injury	Plaintiff alleged that he tripped and fell over a catch basin missing its cover, contracted gangrene, and eventually had his foot amputated.	Settled	DWSD
3	Darryl Shavers	City of Detroit	WCCC 15-011843-NO	Pre	Personal Injury	Plaintiff alleged that he tripped and fell over a catch basin missing its cover.	Settled	DWSD
4	Ronnie Lee Warren	City of Detroit	WCCC 16-003869-CK	Pre	Breach of Contract	Plaintiff's property was foreclosed after a water lien was placed on the property taxes. Claims DWSD's outside counsel told him the amount was being removed from his property tax bill.	Dismissed via Motion for Summary Disposition	N/A
5	GJ Sheena	City of Detroit	WCCC 16-007151-NZ	Post	Property Damage	Plaintiff owns the Pizzapapolis location on E. Jefferson. Plaintiff claimed that he had experienced flooding at his business.	Settled	GLWA
6	Duane Finley	City of Detroit	WCCC 16-007819-NO	Pre	Personal Injury	Plaintiff alleged he tripped over a catch basin missing its cover.	Stipulated Dismissal- Plaintiff died	N/A
7	Rocky Firehouse No. 5	City of Detroit	WCCC 16-015240-CZ	Post	Breach of Contract	Plaintiff alleged that it was improperly billed for water and sewerage services.	Stipulated Dismissal- Plaintiff paid DWSD for delinquent bills	N/A
8	Sabrina Wiggins	City of Detroit	WCCC 16-008973-NO	Pre	Personal Injury	Plaintiff alleged that she tripped and fell over a catch basin missing its cover.	Settled	DWSD
9	Helen Giles	City of Detroit	WCCC 16-013043-NO	Pre	Personal Injury	Plaintiff alleged that she tripped over a catch basin missing its cover.	Settled	GLWA

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10	Ron Johnson	DWSD	36 th District 16-202496-GC	Post	Breach of Contract	Plaintiff alleged that he made arrangements to have water service disconnected at his rental property, and that DWSD did not disconnect the services and continued to bill for usage at the property.	Dismissed- Plaintiff failed to appear at the initial court hearing.	N/A
11	Food and Water Watch	City of Detroit and GLWA	WCCC 16-013263-CZ	Post	FOIA violation	Plaintiff alleged DWSD failed to produce documents pursuant to a FOIA request.	Dismissed via Motion for Summary Disposition. The judge issued an order reinstating DWSD to the case, and ultimately dismissed the case pursuant to DWSD's renewed motion for summary disposition.	
12	Toni Glover	City of Detroit and DWSD	WCCC 16-004723-NI	Pre	Personal Injury	Plaintiff alleged that her vehicle was struck by a Detroit Police Department vehicle. The accident was allegedly caused by freezing water from a water main break.	DWSD was dismissed from the case pursuant to motion for summary disposition.	
13	Gail Beasley	City of Detroit and GLWA	WCCC 16-012602-NZ	Post	Property Damage	Class plaintiff alleged that she and other similarly-situated plaintiffs sustained damage resulting from water and sewage backing up into their basements following two substantial rainstorms.	Settled	DWSD and GLWA
14	Brenda Burton	City of Detroit	WCCC 17-007880-NO	Pre	Personal Injury	Plaintiff's son's body was found in a DWSD sewer. A DWSD employee posted on social media regarding the incident, and Plaintiff claimed intentional infliction of emotional distress.	Dismissed via motion for summary disposition.	N/A

#	Plaintiff	Defendant	Court/Case number	Pre/Post Bifurcation Incident	Type of Action	Brief Facts	Disposition	Settlement Funding Source
15	Mary Crawford	City of Detroit	WCCC 17-008726-NI	Post	Personal Injury	Plaintiff alleged that she was riding her bike across E. Jefferson when a DWSD employee driving a DWSD vehicle allegedly struck her.	Settled	DWSD
16	Richard Drumb	City of Detroit	36 th District 16-115416-GC	Post	Property Damage	Plaintiff alleged that he sustained damage to his property resulting from water and sewage backing up into his basement following two substantial rainstorms.	Stipulated dismissal- Plaintiff pursued his claims through the Beasley class action.	N/A
17	Elgin Cooper	DWSD	36 th District 17-110535-GC	Post	Property Damage	Plaintiff alleged that he sustained damage to his property resulting from water and sewage backing up into his basement.	Dismissed via Motion for Summary Disposition- Plaintiff was not the owner of the property in question	N/A
18	Samantha Jones	DWSD and GLWA	WCCC 18-009515-NI	Post	Personal Injury	Plaintiff alleged that her vehicle was struck by a DWSD vehicle driven by a DWSD employee.	DWSD dismissed via a stipulated dismissal. The vehicle and employee involved belonged to GLWA.	N/A
19	Kate Levy	DWSD	WCCC 16-003756-CZ	Pre	FOIA Violation	Plaintiff alleged DWSD failed to provide records responsive to her FOIA request.	Settled	GLWA
20	RPU	DWSD	36 th District 17-109592-GC	Post	Breach of Contract	Plaintiff alleged that DWSD allowed his tenant to make payments for water and sewerage services with fraudulent checks.	Dismissed via Motion for Summary Disposition	N/A
21	RPU	Constance Williams Spann and DWSD	36 th District 17-131344-CZ	Post	Breach of Contract	Plaintiff alleged that DWSD failed to properly train employees that allowed his tenant to make payments for water and sewerage services with fraudulent checks.	Dismissed via Motion for Summary Disposition	N/A

#	Plaintiff	Defendant	Court/Case number	Pre/Post Bifurcation Incident	Type of Action	Brief Facts	Disposition	Settlement Funding Source
22	Terri Warren-Davis	DWSD and Detroit Thermal	WCCC 17-007817-NZ	Post	Personal Injury	Plaintiff alleged that she was walking across the street when a manhole cover exploded, emitting hot steam which allegedly caused second degree burns to Plaintiff's ankle and leg.	Stipulated dismissal- The manhole that injured Plaintiff belonged to Detroit Thermal	N/A
23	Jim Titus	DWSD	36 th District 16-200490-GC	Pre	Property Damage	Plaintiff alleged that DWSD disconnected his lead lines to his property and thereby impacted his ability to rent his property.	Stipulated dismissal- Plaintiff died.	
24	Nellie Wardrup	DWSD	WCCC 17-012631-NO	Post	Personal Injury	Plaintiff alleged that she was walking when she tripped on a storm sewer cover in an alley that was elevated more than two inches above the adjoining pavement.	Dismissed via motion for summary disposition	N/A
25	Katie Washington-Harvey	DWSD	WCCC 17-006596-NF	Pre	Personal Injury	Plaintiff alleged that she was visiting a car wash when she fell into an open manhole.	Settled	DWSD
26	Michael Williams	DWSD	WCCC 17-003914-NO	Post	Personal Injury	Plaintiff alleged that he fell when his foot slipped into a cracked manhole.	Settled	DWSD
27	Kenyada Sailes	City of Detroit	WCCC 15-004189-NO	Pre	Personal Injury	Plaintiff alleged that she fell into a manhole missing its cover.	Settled	DWSD