# STATE OF MICHIGAN

# COURT OF CLAIMS

DAVID KRIEGER, et al.,

Plaintiffs,

v

Case Nos. 20-000094-MM; 20-000102-MM; 20-000103-MM; 20-000111-MM; 20-000112-MZ; 20-000116-MM; 20-000118-MM; 20-000121-MM; 20-000140-MM; 20-000151-MM; 20-000156-MM; 20-000230-MM; 20-000232-MZ; 20-000233-MM; 20-000235-MM; 20-000236-MM; 20-000237-MM; 20-000239-MM; 20-000240-MZ; 20-000241-MM; 20-000245-MM; 20-000246-MM; 20-000257-MM; 20-000260-MM; 20-000262-MM; 23-000073-MM; 23-000074-MZ; 23-000076-MM

MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY, et al.,

Hon. James Robert Redford

Defendants.
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## TRIAL MANAGEMENT ORDER FOLLOWING FINAL PRETRIAL CONFERENCE OF MONDAY, JANUARY 5, 2026

The following order supplements but does not replace any prior issued case scheduling or management order and is issued to assist the parties in the presentation of proofs in this matter and to memorialize the Court's expectations:

## TRIAL SCHEDULE

Trial on the liability issues in this case shall commence at 8:30 a.m. Monday, January 12, 2026, in the Grand Rapids, Michigan Court of Appeals Courtroom and will continue until 5:00 p.m. with recesses as previously indicated and discussed with counsel.

Trial on the liability issues in this case shall continue every business day thereafter in the same manner until the matter is submitted to the Court for consideration with the exception of the dates indicated in the next paragraph.

Court will not be in session on Monday, January 19, 2026, in observation of the Dr. Martin Luther King, Jr. holiday. Court will not be in session on Tuesday, February 10, 2026, and Wednesday, February 11, 2026, because the Court of Appeals will be in session in the courtroom. Court will not be in session on Monday, February 16, 2026, in observation of the Presidents' Day holiday.

## OPENING STATEMENTS

Attorney Thomas W. Waun will give the opening statement for the mass plaintiffs, which will be no longer than 45 minutes.

Attorney Jason J. Thompson will give the opening statement for the class action plaintiffs, which will be no longer than 45 minutes.

Attorney Nathan Gamble will give the opening statement for defendants, which will be no longer than 45 minutes.

## WITNESSES

**Examination of Witnesses**
The examination of witnesses shall consist of:
Direct examination
Cross-examination
Redirect examination

In the case of a witness whose name appears on both plaintiffs' and defendants' witness lists, the Court will likely allow recross-examination and re-redirect examination of those witnesses.[1] If a witness is not listed on both parties' witness lists, parties should anticipate that recross and re-redirect will not be allowed.

**Objections and Responses to Objections**

Only an attorney conducting the exam of a witness may either interpose an objection or respond to an objection. In making any objection, an attorney shall stand, make sure they have a microphone, and succinctly state their objection and the legal basis thereof. The same shall be undertaken when responding to an objection.

The Court reminds counsel that the making of and responding to objections is not an opportunity to argue one's case or make a precursor to what one's closing argument in the case may be. Rather, it is the opportunity to state an objection or respond thereto and state the legal basis supporting the objection or the response.

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[1] In the parties' Joint Final Pretrial Statement, filed December 12, 2025, plaintiffs listed 28 witnesses and defendants listed 48 witnesses. Of the listed witnesses 17 individuals' names appear on both plaintiffs' and defendants' lists. This indicates the parties' intention to call 59 total combined witnesses at this time.

The Court acknowledges during the Zoom final pretrial conference, counsel for class action plaintiffs indicated the number of witnesses they anticipate calling has lowered to 11. Mass plaintiffs' counsel and defendants' counsel also indicated the number of witnesses who may be called could potentially be smaller than the number indicated in the December 12, 2025 filing.

**Order of Witnesses and Advising the Court Thereof**

By 4:30 p.m., Wednesday, January 7, 2026, plaintiffs shall e-mail to the Court's staff (RThomet@courts.mi.gov) and opposing counsel the names of the first five (5) witnesses they intend to call and the order they intend to call them. The notice shall include the name of the attorney or attorneys who will be conducting the examination of each witness. (Multiple attorneys for direct exam only if plaintiffs intend to have mass plaintiffs and class plaintiffs both examine the witness.)

Plaintiffs shall indicate the amount of time they expect the direct exam and redirect exam will take.

By 4:30 p.m., Thursday January 8, 2026, defendants shall provide via e-mail the name of the attorney who will conduct cross-examination and provide an estimate of how long cross-examination will require.

As the trial continues, plaintiffs and defendants shall orally advise the Court of the same information each Wednesday and Thursday prior to the close of proofs for the day and at other times and at such frequencies as directed by the Court during the course of the trial.

Once plaintiffs have rested their case and as plaintiffs' presentation of proofs comes close to an end, defendants shall be required to provide the notice indicated above regarding who will conduct witness exam and length of exam, and plaintiffs shall provide the information re who will conduct cross-examination and how long they anticipate they will require.

## *IN CAMERA* MEETINGS WITH THE COURT

If a party desires an *in camera* meeting with the Court, the party shall first advise opposing counsel of this. After having advised opposing counsel of such a request, if the parties and the Court are present in open court, the requesting party will make such a request on the record in open court. If the requirement to make such a request is recognized by counsel when court is not in session, the party shall first advise opposing counsel of the requirement and then contact the Court's staff to request such a meeting.

All *in camera* meetings will be memorialized in a summary fashion by the Court to the greatest extent possible at the next session of court that takes place on the record. After the Court summarizes the *in camera* session, the Court will give counsel for both sides an opportunity to comment and amplify the record if they desire to do so.

## IMPACT OF COURT'S PREVIOUS ORDERS

All aspects of the Court's previous orders in this case, unless specifically changed or removed by this order, continue to be in full force and effect.

## FURTHER CASE MANAGEMENT AND SCHEDULING ORDERS

The Court reserves the right to issue any additional orders or to modify, edit, change, amplify, or cancel any aspects of any case management order issued in this matter at any time with or without notice to the parties until a final order is entered closing the case.

IT IS SO ORDERED.

Date: January 5, 2026

James Robert Redford
Judge, Court of Claims