STATE OF MICHIGAN
COURT OF CLAIMS

JENNIFER JANSSEN-ROGERS, BROOKE ROSENBAUM, DARETHA BRAZIEL, individually and as Next Friend for R.B. (minor 2), D.B. (minor 3), D.K. (minor 4); KEESHA JONES, individually and as Next Friend for K.B. (minor 5); D.J. (minor 6), T.M.C. (minor 7), T.C. (minor 8), and K.L.B. (minor 9); STACEY BRANSCUMB; and EMMA KINNARD; all individually and on behalf of all others similarly situated,

Plaintiffs,

v

THE MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, & ENERGY (EGLE); ERIC OSWALD, in his official capacity as Director of EGLE's Drinking Water and Environmental Health Division (DWEHD); THE MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS); and ELIZABETH HERTEL, in her official capacity as Director of DHHS,

Defendants.

Nos. 2021-000246-MM
2022-000046-MM

HON. SIMA G. PATEL

STIPULATION FOR BIFURCATION AND TO ISSUE CLASS CERTIFICATION

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STIPULATION FOR BIFURCATION AND TO ISSUE CLASS CERTIFICATION

WHEREAS, Plaintiffs Jennifer Janssen-Rogers; Brooke Rosenbaum; Daretha Braziel, individually and as next friend of R.B., D.B., D.K.; Keesha Jones, individually and as next friend of D.J., T.M.C., T.C.; Stacey Branscumb; and Emma Kinnard (Plaintiffs) filed a Consolidated Amended Class Action Complaint against Defendants Michigan Department of Environment, Great Lakes, & Energy (EGLE), Eric Oswald (in his official capacity as Director of EGLE's Drinking Water and Environmental Health Division), the Michigan Department of Health and Human Services (DHHS), and Elizabeth Hertel (in her official capacity as Director of DHHS) (jointly referred to as State Defendants);

WHEREAS, Plaintiffs' Consolidated Amended Class Action Complaint asserts claims against the State Defendants pursuant to Const 1963, art 1, § 17, Substantive Due Process – Bodily Integrity (Bodily Integrity) and Const 1963, art 10, § 2, Unconstitutional Taking of Property (Inverse Condemnation);

WHEREAS, State Defendants have denied all claims in the Consolidated Amended Class Action Complaint;

WHEREAS, Plaintiffs and State Defendants have met and conferred about potential pathways to promote judicial efficiency, avoid undue prejudice, and proceed with discovery, class certification, and trial in the lawsuit;

NOW THEREFORE, Plaintiffs and State Defendants stipulate and agree as set forth below:

A. Bifurcation

1. Plaintiffs and State Defendants stipulate that the pre-trial matters and trial of this case shall be bifurcated into two separate phases: (1) liability and (2) damages. The liability phase relating to Plaintiffs' (Bodily Integrity and Inverse Condemnation) claims shall proceed first, and no evidence solely relating to damages shall be discovered or introduced until the liability phase has concluded.

2. Plaintiffs and State Defendants stipulate that all discovery, motion practice, and trial practice shall be limited to issues of liability during the liability phase. The June 29, 2026 case management order is vacated and replaced with the following schedule:

Close of Liability Fact Discovery, including all fact depositions; all discovery must have been timely served 28 days prior to be answerable by this date	March 12, 2027
Plaintiffs produce Liability Expert Witness Reports	May 7, 2027
Defendants produce Liability Expert Witness Reports	July 2, 2027
Rebuttal Expert Reports for liability experts, if any, by both parties due	August 27, 2027.
Close of liability expert discovery, including all liability expert depositions.	October 26, 2027
Dispositive Motions under MCR 2.116(C)(10). Responses are due within 21 days of any motion, and replies are due within seven days of the response	January 12, 2028
Pretrial conference under MCR 2.401(H).	Within 60 days of Orders on Dispositive Motions under MCR 2.116(C)(10), or as soon thereafter as is convenient for the Court
Zoom conference remains scheduled for:	November 17, 2026 at 11 a.m.

3. Consistent with the Court's June 29, 2026 Scheduling Order, all Expert Witness Reports must contain the following:

a. A complete statement of all opinions the witness will express at the stage of the case for which the report is offered, and the basis and reasons for them;

b. The facts or data considered by the witness in forming them;

c. Any exhibits that will be used to summarize or support them;

d. The witness's qualifications, including a list of all publications authored in the previous 10 years;

e. A list of all other cases in which, during the previous four years, the witness testified as an expert at trial or by deposition; and

f. A statement of the compensation to be paid for the study and testimony in the case.

4. From the date of this stipulated order, each Defendant shall be permitted to file no more than one dispositive motion during the remaining portion of the liability phase.

5. Upon complete resolution of the liability phase and if a damages phase must take place, the parties will negotiate and submit a proposed amended case management order to the Court that will govern the discovery and pretrial matters specific to the damages phase.

B. Issue Class Certification

1. Pursuant to MCR 3.501 and for the reasons fully set forth below, Plaintiffs and State Defendants stipulate to certification of the following classes for purposes of liability only:

a. Bodily Integrity Class: All individuals who resided, attended school, or worked at a property serviced by Benton Harbor's municipal water system, and all individuals whose mothers resided, attended school, or worked at such a property while such individual was in utero, at any point between January 1, 2018 and October 14, 2021.

b. Inverse Condemnation Class: All individuals who are or were owners, occupants, and/or renters of residential or commercial property serviced by Benton Harbor municipal water at any time between January 1, 2018 and October 14, 2021.

2. The Bodily Integrity Class and the Inverse Condemnation Class shall be referred to collectively as the "Classes". Excluded from the Classes are employees, directors, officers, or agents of State Defendants who were involved in the actions alleged in the Consolidated Amended Class Action Complaint; all persons who make a timely election to be excluded from the Classes; and all judges assigned to hear any aspect of this litigation, including their immediate family members.

3. Pursuant to MCR 3.501 and for the reasons set forth below, Plaintiffs and State Defendants stipulate to the appointment of:

a. Plaintiffs Jennifer Janssen-Rogers; Brooke Rosenbaum; Daretha Braziel, individually. and as next friend of R.B., D.B., D.K.; Keesha Jones, individually, and as next friend of D.J., T.M.C., T.C.; Stacey Branscumb; and Emma Kinnard to represent the Classes;

b. Lieff Cabraser Heimann & Bernstein LLP, Coulson P.C., and Kershaw, Cook & Talley Legal P.C. (all previously appointed to serve as interim co-lead counsel) as "Co-Lead Class Counsel" to represent the Classes, and Edwards & Jennings (previously appointed as State-Federal liaison counsel) to serve as Plaintiffs' liaison counsel.

4. Pursuant to MCR 3.501 and for the reasons set forth below, Plaintiffs and State Defendants stipulate to the certification of the Classes solely for purposes of determining the question of the State Defendants' liability for the Bodily Integrity and Inverse Condemnation claims.

5. Plaintiffs and State Defendants do not stipulate that the Classes are certified as classes for purposes of any questions to be addressed in the damages phase of the litigation. If the cases proceed to the second stage of litigation, this stipulation has no bearing on the issue of class certification for that phase.

6. Plaintiffs and State Defendants agree that, within 30 days of the Court's order adopting this stipulation and certifying the Classes, they will submit a proposed plan to provide notice to the Classes pursuant to MCR 3.501(C).

As stipulated by:

Respectfully submitted,

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IT IS SO ORDERED

Date: October 27, 2026

Honorable Sima G. Patel
Court of Claims