

STATE OF MICHIGAN
OAKLAND COUNTY CIRCUIT COURT

JAMILA YOUMANS,
individually and as representative of a class of
similarly-situated persons and entities,

Case No. 2016-152613-CZ
Hon. Daniel P. O'Brien

Plaintiff,

v.

CHARTER TOWNSHIP OF BLOOMFIELD,
a municipal corporation,

Defendant.

Order

This matter is before the court on plaintiff's motion for reconsideration. The court invited and received a response from defendant and the court reviewed the reply from plaintiff.

There is a dispute between the parties whether the court adjudicated "liability" on the topics of non-rate revenue and sewer-only receipts. Defendant summarizes the pertinent portion of the court's bench opinion that the court was unable to decide the question of legal liability. Plaintiff, in turn, quotes the court's bench opinion, page 151, lines 12 and 13: "Judgment, liability to plaintiff on both sections."

Defendant is correct in its summary and plaintiff is correct in its quote.

The court found defendant liable-blameable-for the court's inability to adjudicate liability-disproportionality of rates to costs-one way or the other.

If lines 12 and 13 on page 151 of the court's bench opinion misled plaintiff despite the message elsewhere and throughout its July bench opinion and the September 5, 2018 colloquy in court, the court apologizes for such blunder. As stated in the court's bench opinion, defendant's

rate methodology prevented the court from answering the question of defendant's legal liability. It is surely due to such court blunder that plaintiff's cases referenced in its motion for reconsideration 'miss the mark'. With a few impertinent exceptions¹, plaintiff's cases bear upon the subject of damages which naturally and legally follow in sequence the adjudication of legal liability.

The court's opinion and judgment was and is that the question at the beginning of the case (whether defendant's rates were proportional or disproportional to costs) remained a question at the end of the case; remains a question to date. Defendant's rate-making practices obstructed the court's view preventing the court from adjudicating that question.

Just as defendant is accurate that the court did not adjudicate *disproportion* (because defendant obstructed or impeded the court's view), neither did the court adjudge no cause of action in these sections *against* plaintiff (because defendant obstructed or impeded the court's view).

The court affirms its September 17, 2018 judgment and its bench opinion with the above clarification concerning page 151, lines 12 and 13.

The court was and remains inquisitive of defendant (see bench opinion page 153 beginning with the first complete sentence on line 7 through the sentence completed on line 13, page 154).

The court was and remains inquisitive of plaintiff (see September 5, 2018 transcript, page 16 beginning at line 11 through line 20 on page 18) or, given the above-mentioned misunderstanding, the inquiry to plaintiff was and remains this: "Is there a legal or equitable

¹ City of Kalamazoo v Standard Paper Co, 182 Mich 476 (1914) involved numerous subjects: damages, jury instructions, pleading practice and liability. But the issue within the subject of liability had nothing to do with the extant inquiry to the Youman class plaintiff here. Both Willis v Ed Hudson Towing, 109 Mich App 344 (1981) and Wiencek v Willis, 1997 WL 33344868 (Mich App July 25, 2997) involved the subject of liability but the issue within the subject of liability had nothing to do with the extant inquiry to the Youman class plaintiff here.

doctrine which would yield a judicial adjudication in favor of one party because the other party obscured proofs needed for that judicial adjudication?”.

To the extent plaintiff's motion for reconsideration is a restatement of witness Heid and other superfluity, the court denies reconsideration.

It is so Ordered.

Dated: 29 November 2018

A handwritten signature in cursive script, reading "Daniel Patrick O'Brien", written over a horizontal line.

Hon. Daniel Patrick O'Brien

Kim Plets

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OAKLAND COUNTY 6TH CIRCUIT COURT