TO: Members of the Troy City Council

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SUBJECT: 2013 Second Quarter Litigation Report

The following is the quarterly report of pending litigation and other matters of interest. **Developments during the SECOND quarter of 2013 are in bold.**

A. ANATOMY OF THE CASE

Once a lawsuit has been filed against the City or City employees, the City Attorney's office prepares a memo regarding the allegations in the complaint. At that time, our office requests authority from Council to represent the City and/or the employees. Our office then engages in the discovery process, which generally lasts for several months, and involves interrogatories, requests for documents, and depositions. After discovery, almost all cases are required to go through case evaluation (also called mediation). In this process, three attorneys evaluate the potential damages, and render an award. This award can be accepted by both parties, and will conclude the case. However, if either party rejects a case evaluation award, there are potential sanctions if the trial result is not as favorable as the mediation award. In many cases, a motion for summary disposition will be filed at the conclusion of discovery. In all motions for summary disposition, the Plaintiff's version of the facts are accepted as true, and if the Plaintiff still has failed to set forth a viable claim against the City, then dismissal will be granted. It generally takes at least a year before a case will be presented to a jury. It also takes approximately two years before a case will be finalized in the Michigan Court of Appeals and/or the Michigan Supreme Court.

B. ZONING CASES

These are cases where the property owner has sued for a use other than that for which the land is currently zoned and/or the City is suing a property owner to require compliance with the existing zoning provisions.

1. *Grand Sakwa v. City of Troy*- Grand Sakwa filed this case, seeking relief from the Court, which had jurisdiction of the matter based on a Consent Judgment that allowed for the highly intense commercial and residential development on approximately 77 acres of property known as Midtown. The Consent Judgment provided that a small parcel to the rear of the shopping center was donated to the City for transportation center purposes. The Consent Judgment required the transportation center to be "funded" on or before June 2, 2010. If this condition was

not satisfied, then the property would revert to Grand Sakwa. Shortly after the June 2, 2010 date, Grand Sakwa filed this action, seeking a Court ordered reversion of the property. Grand Sakwa argued that the transit center was not funded by June 2, 2010, as required by the Consent Judgment. The City countered by relying on the City's budgetary allocations since 2006, and also the federal funding, where 8.4 million dollars was awarded under the American Recovery Reinvestment Recovery Act of 2009- High Speed Intercity Passenger Rail Program (HSIPR) and 1.3 million dollars was appropriated in the December 16, 2009 Transportation, Housing and Urban Development Appropriations Act, Bus and Bus Facility Program. The City also argued that the language of the consent judgment did not require "full funding" or "irrevocable funding" or preclude the use of a reimbursable grant in satisfaction of the terms of the judgment. On May 25, 2011, the Oakland County Circuit Court entered an order in favor of the City, and denied Grand Sakwa's request for a reversion of property. On June 15, 2011, Grand Sakwa filed a Motion for Reconsideration. The Court ordered the City to file a response to the Motion for Reconsideration. On September 22, 2011, the Court denied the Plaintiff's Motion for Reconsideration. On September 29, 2011, Plaintiff filed an appeal with the Michigan Court of Appeals. On October 11, 2011, the Michigan Court of Appeals dismissed the claim of appeal, since there is no appeal of right from a post-judgment order. Grand Sakwa filed a Motion for Reconsideration on October 28, 2011, which was denied by the Court of Appeals on December 8, 2011. Prior to receiving this decision, Grand Sakwa also filed a Delayed Application for Leave to Appeal on November 22, 2011. The parties are now waiting for a decision from the Michigan Court of Appeals. On July 30, 2012, the Michigan Court of Appeals granted Grand Sakwa's delayed application for leave to appeal. Grand Sakwa filed its Brief on Appeal on September 19, 2012, and the City's Brief on Appeal must be filed on or before October 24, 2012. The legal briefs have been timely filed and the parties are now waiting for the Court to schedule oral argument. Oral argument was held on March 6, 2013, and the parties are now waiting for the Court's decision on appeal. **The Court of Appeals released its opinion on May 2, 2013. The City filed a Motion For Reconsideration on May 23, 2013. Grand Sakwa filed a Motion for Immediate Effect the same day, seeking immediate possession of the property. The Court of Appeals denied both of these motions. The City has until July 26, 2013 to file an Application For Leave To Appeal with the Michigan Supreme Court.**

2. ***Gennari et. al. v. Troy et. al.*** - **This is a re-plat lawsuit that was filed by Plaintiffs, Maurice Gennari, Sandra Gennari and Sandra Gennari Trust u/a/d April 2008, who are owners of property in the Pine Creek Estates Subdivision, which is located north of Square Lake Road and east of Livernois. Part of the Pine Creek Estates Subdivision Plat is being developed as a site condominium project known as Pine Creek Ridge Condominiums, and this project encompasses part of the Pine Creek Estates Subdivision Plat, which needs to be amended in order to develop the Pine Creek Ridge Condominiums as approved. These revisions require four changes to the plat concerning lots that Plaintiff owns, and no other lots will be impacted by**

the proposed plat revision. As with all plat revision cases, all government entities and utilities that may have an interest in the property and all owners within 300 feet of the property are named as defendants.

C. EMINENT DOMAIN CASES

These are cases in which the City wishes to acquire property for a public improvement and the property owner wishes to contest either the necessity or the compensation offered. In cases where only the compensation is challenged, the City obtains possession of the property almost immediately, which allows for major projects to be completed.

There are no pending condemnation cases for this quarter.

D. CIVIL RIGHTS CASES

These are cases that are generally filed in the federal courts, under 42 U.S.C. Section 1983. In these cases, the Plaintiffs argue that the City and/or police officers of the City of Troy somehow violated their civil rights.

1. Alan A. May, as Personal Representative of the Estate of Jesus Gillard v. Bloomfield Township, Troy, et. al – Plaintiff, Alan A. May, is the personal representative of the estate for the deceased Jesus Gillard. Gillard was involved in a police pursuit that was initiated in Bloomfield Township by its police officers. The pursuit ended in the City of Troy at the intersection of Big Beaver Road and Adams Road when Gillard's van collided with an SUV driven by a civilian. After the collision, Gillard continued to attempt to flee and elude police officers from both Bloomfield Township and Troy. He actively resisted the officers' attempts to subdue him and place him under arrest. At some time after Gillard was handcuffed, he stopped breathing. The defendants in the lawsuit are the City of Troy and individual officers from the police department as well as Bloomfield Township and individual officers from its police department. This wrongful death lawsuit alleges constitutional violations against the defendants, including failure to train and deliberate indifference to a serious medical need. The case was filed in the United States District Court for the Eastern District of Michigan and assigned to the Honorable Judge Robert Cleland. The parties are obtaining discovery in this matter. The parties continue to conduct discovery in this matter. Depositions of Plaintiff's expert witnesses have been scheduled and will continue through the beginning of November. The City plans to file a Motion for Summary Judgment on or before the cut-off date which is November 14, 2012. The City timely filed its Motion for Summary Judgment, and the parties are now awaiting oral argument before the Court. Oral argument is scheduled for April 3, 2013. **On May 28, 2013, Judge Cleland issued an Opinion and Order granting summary judgment in favor of the City of Troy and all of the individual Troy police officers except one. The Court also dismissed all but one of the claims raised by Plaintiff, and found that as to the one claim of excessive**

force, there was an issue of fact to be determined by a jury. The jury trial is scheduled to begin on October 21, 2013.

2. ***Charlene Femminineo v Slater, et al*** **– Plaintiff filed this lawsuit in the Federal District Court for the Eastern District of Michigan on April 15, 2013, seeking declaratory relief, injunctive relief, damages, punitive damages, costs and attorney fees against the City and all individual members of City Council. Ms. Femminineo claims that defendants violated her First Amendment right to free speech, her Fourteenth Amendment right to equal protection and the Michigan Open Meetings Act by striking her public comments from re-broadcasts of the City Council meeting and the minutes, since they were found to be in violation of the City Council Rules of Procedure (public comment). Ms. Femminineo also challenged the defendant's actions in asking her not to repeat the stricken comments at a subsequent City Council meeting. The case was assigned to Judge John Corbett O'Meara. The City immediately filed a Motion to Dismiss and for Summary Judgment on behalf of all Defendants.**

E. PERSONAL INJURY AND DAMAGE CASES

These are cases in which the Plaintiff claims that the City or City employees were negligent in some manner that caused injuries and/or property damage. The City enjoys governmental immunity from ordinary negligence, unless the case falls within one of four exceptions to governmental immunity: a) defective highway exception, which includes sidewalks and road way claims; b) public building exception, which imposes liability only when injuries are caused by a defect in a public building; c) motor vehicle exception, which imposes liability when an employee is negligent when operating their vehicle; d) proprietary exception, where liability is imposed when an activity is conducted primarily to create a profit, and the activity somehow causes injury or damage to another; e) trespass nuisance exception, which imposes liability for the flooding cases.

There are no pending personal injury and damage cases for this quarter.

F. MISCELLANEOUS CASES

1. *Michigan Association of Home Builders; Associated Builders and Contractors of Michigan; and Michigan Plumbing and Mechanical Contractors Association v. City of Troy* – The Plaintiffs filed a complaint for Declaratory and Injunctive Relief in the Oakland County Circuit. On the date of filing the Plaintiffs also filed a Motion for Preliminary Injunction and Order to Show Cause. The Plaintiffs allege that the City of Troy has violated Section 22 of Michigan's Stille-DeRossett Hale Single State Construction Code Act by collecting fees for building department services that are not reasonably related to the cost of providing building department services. They are alleging that the City of Troy has illegally entered into a contract with Safe Built of Michigan, Inc. for building services that provides

that 20% of each building permit fee be returned to the City to cover services that are not "reasonably related to the cost of building department services," as required by state statute. The Plaintiffs also assert a violation of the Headlee Amendment, arguing that the 20% returned to the City is a disguised tax that was not approved by voters. The Plaintiffs are asking for a declaratory judgment, as well as a return of any "surplus" building department service funds collected to date. Plaintiffs also request an order requiring the City to reduce its building department fees. The City of Troy was served with the Complaint and the Motion for Preliminary Injunction and Order for Show Cause on Wednesday, December 15, 2010. The parties were required to appear at Court on Wednesday, December 22, 2010, but the Court did not take any action at that time. Instead, the Court adjourned the matter to January 19, 2011. In the interim, the parties may engage in preliminary discovery in an attempt to resolve this matter. The parties are conducting discovery. The parties have completed discovery. Trial in this matter is scheduled for January 30, 2012. After being presented with motions for summary disposition, the Court ordered the parties to engage in mediation with a neutral municipal audit professional. Financial documents concerning this case are now being reviewed by an independent CPA. It is expected that the April 19, 2012 trial date will be postponed until after this review is complete. Mediation was unsuccessful in resolving this case, and therefore the Court is expected to issue an order on the pending Summary Disposition Motions. The trial date has been adjourned. On November 13, 2012, Oakland County Circuit Court Judge Shalina Kumar issued her order in favor of the City, and dismissed this case. Plaintiffs filed an appeal, which is now pending in the Michigan Court of Appeals. Appellant's brief is expected to be filed soon. **The parties timely filed their appellate briefs, and are now waiting for the Court of Appeals to schedule a date for oral argument.**

2. *T.R. Pieprzak v. City of Troy.* This case has been filed by the successful bidder for the Section 9 water main replacement contract, seeking approximately $900,000 over the contract bid for alleged additional work, unanticipated conditions and delays that Plaintiff attributes to the City of Troy. Plaintiff filed a Motion for Partial Summary Disposition, which the City responded to. Argument on this Motion is scheduled for July 6, 2011. The Court denied Plaintiff's Motion for Partial Summary Disposition. The case is now in discovery. Case evaluation for the case took place on November 17, 2011. The City and the Plaintiff each filed Motions for Summary Disposition at the close of discovery. The Court agreed with the amount the City claimed was due on the contract and entered an Order on March 9, 2012 that dismissed Plaintiff's claims seeking damages in excess of that amount. The Order is a final order and closes the case. T.R. Pieprzak filed a Motion for Reconsideration on March 29, 2012. The Court has not yet issued an opinion on Pieprzak's Motion for Reconsideration. On January 17, 2013, Judge Nichols entered his Opinion and Order denying the Plaintiff's Motion for Reconsideration. The Plaintiff has now filed a Claim of Appeal with the Michigan Court of Appeals. **Plaintiff filed its appellate brief, and the City's brief is due July 18th.**

3. *Troy Police Officers Association v. City of Troy and Act 78 Civil Service Commission.* Plaintiff TPOA Union has filed this lawsuit against the City and also the Act 78 Civil Service Commission, seeking a hearing on behalf of one of its members, Todd Michael. Mr. Michael seeks a hearing before the Civil Service Commission, where he can have the chance to establish that he was constructively discharged from the City; or in the alternative that he was improperly disciplined by the City. In addition to seeking a court order mandating a hearing for Todd Michael, Plaintiff is also seeking an order requiring the City to amend its rules to allow for hearings in similar circumstances. The Amended Complaint was filed on May 21, 2012. On September 18, 2012, Plaintiff filed a Motion for Summary Disposition, which is scheduled for hearing on November 21, 2012. On December 5, 2012, the Court granted in part, denied in part the cross motions for summary disposition. This case is now pending in the Michigan Court of Appeals. Appellant's brief has been filed with the Court of Appeals. **Appellee timely filed its brief, and the City filed a reply brief in response. The parties are now waiting for the Court of Appeals to schedule a date for oral argument.**

4. *Rodney Knutson v. City of Troy et. al.* Plaintiff has filed this lawsuit against the City and one of its officers, alleging breach of implied contract or oral agreement and conversion of property. In this case, the Troy Police Department agreed to temporarily store a large amount of cash that would have otherwise been left unattended at Plaintiff's house. There was a $1000 discrepancy as to the amount of cash that was temporarily safeguarded by the Troy Police Department. The City has filed an Answer to the Complaint and Affirmative Defenses. A pre-trial is scheduled for October 29, 2012 with Judge Kirsten Nielsen Hartig, 52-4th District Court. Based on potential conflicts, the Troy District Court transferred this case to the Novi District Court, which scheduled a January pre-trial conference. The parties are engaging in discovery. **The parties are waiting for the Court to schedule the trial.**

5. *Todd Michael v. City of Troy et. al.-* Todd Michael has filed this lawsuit against the City, the Troy Police Department and the Troy Police Chief. Through this lawsuit, Plaintiff alleges that he was discriminated against in his employment with the City, in violation of the Americans With Disabilities Act. He also alleges that he suffered retaliation for his alleged disability. He is asking to be reinstated as a Troy Police Officer. He is also asking for additional compensation, punitive damages, costs and attorney fees. The answer to the complaint and affirmative defenses were filed on September 27, 2012. The Court has issued a scheduling order in this case, and discovery is on-going. The parties are continuing in the discovery phase. **The Court has extended the discovery cut off in this matter, and the parties continue to take depositions in this case.**

6. *Citizens United Against Corrupt Government v. Troy City Council*- This is a lawsuit filed by the Citizens Against Corrupt Government, which is a Michigan

Non-Profit Corporation formed by Robert Davis. In this lawsuit, Plaintiff alleges that the City violated the Open Meetings Act in holding a closed session on August 15, 2012, as part of the City Manager Search process. Through this lawsuit, Plaintiff is seeking a declaration that the City Council violated the Open Meetings Act. Plaintiff also asked for injunctive relief, and asked for an immediate hearing. The Court, after hearing arguments from the parties, denied the request for Injunctive relief with an order dated September 13, 2012. Immediately thereafter, Plaintiff attempted to schedule depositions of individual City Council members and other members of City Administration and the search consultant. The City filed a Motion for a Protective Order on September 28, 2012. On that day, the City also filed a Motion for Summary Disposition, arguing that Plaintiff does not have a viable case against the Troy City Council. On November 21, 2012, Judge O'Brien issued her order granting the City's Motion for Summary Disposition and dismissing this case. Plaintiff appealed this decision, which is now pending in the Michigan Court of Appeals. It is anticipated that Appellant will file its legal brief in the immediate future. **Plaintiff missed the deadline for filing its appellate brief, but the Court of Appeals may allow a late brief.**

7. National Public Finance Guarantee Corporation v. City of Troy- This lawsuit was served on the City of Troy on October 18, 2012. The Plaintiff, National Public Finance Guarantee Corporation (NPFG), is an insurer on bonds issued by the Troy Downtown Development Authority. NPFG filed a Freedom of Information Request (FOIA), looking for financial documents from the City of Troy. Through this lawsuit, Plaintiff argues that the City did not fully comply with FOIA when responding to the FOIA request. The City has filed an answer, and the parties are conducting discovery. The parties are continuing in the discovery phase. **On June 19, 2013, this case was dismissed by stipulation of the parties.**

8. Troy Police Officers Association v. City of Troy and Troy Employee Retirement System Board of Trustees- This lawsuit was served on the City on January 9, 2013. The Troy Police Chief, on behalf of former Troy Police Officer Todd Michael, filed a disability retirement request with the Troy Employee Retirement System Board of Trustees. Mr. Michael had not worked for the City since January 10, 2010, as a result of three independent neuropsychological examination reports. TPOA filed this lawsuit to prevent the Employee Retirement System Board of Trustees from considering this retirement request. An ex parte temporary restraining order was entered by the Court at the time that the complaint was filed, with a show cause hearing date of January 16, 2013. At that time, the parties agreed to engage in facilitation. The Court scheduled a court date for April 24, 2013 in the event that the case was not resolved prior to that time. **Facilitation of this and companion cases was unsuccessful, and the Court scheduled a hearing for July 10, 2013, where Plaintiff would need to demonstrate entitlement to its requested relief.**

9. ***Alan R. Brown v City of Troy Police Department*. Plaintiff filed this claim and delivery action in the 52-4 District Court seeking return of several firearms that**

were seized from his home by the Troy Police. The City has filed an Answer and a Response to Plaintiff's Motion for Possession. On May 16, 2013, Judge William E. Bolle denied Plaintiff's Motion for Immediate Possession, and the parties are now waiting for a scheduling order from the Court.

10. ***Community Financial v. City of Troy-*** Community Financial Members Federal Credit Union initially filed this lawsuit against the City of Troy, City of Troy Police Department, and one of its individual task force officers in the Ingham County Circuit Court (Lansing). Lansing Judge Jamo scheduled a show cause hearing for April 18, 2013, and the City successfully challenged this, since Oakland County was the appropriate venue for this lawsuit. The case was then transferred to the Honorable Judge Denise Langford Morris of the Oakland County Circuit Court on May 7, 2013. With this lawsuit, Plaintiff is seeking to invalidate the City's drug forfeiture of a 2007 Ford pick-up truck, which was seized when the owner of the pick-up truck was arrested for felony drug trafficking. Plaintiff Community Financial Members Federal Credit Union had a lien on the pick-up truck. Plaintiff argues that the City is not entitled to recoup any of its administrative costs or towing or storage charges. Additionally, Plaintiff claims that the City is not entitled to recoup money owed to a dealership for car repair and maintenance, since these costs are allegedly inferior to the Plaintiff's lien. The arrested person had taken the pick-up truck to the car dealership prior to his arrest, and it was from the dealership that the City seized the vehicle. Plaintiff is seeking a writ of mandamus, declaratory relief, and damages, costs, and attorney fees through this lawsuit.

11. ***Edward Belczak v City of Troy***. This lawsuit was filed against the City on May 28, 2013. Through this lawsuit, Plaintiff seeks a reversal of an Order issued by a District Court Judge which froze certain assets held in a Merrill Lynch account. The assets were frozen pending the investigation of a claim of embezzlement and other crimes against Plaintiff. In essence, Plaintiff claims his Fourth Amendment rights were violated because the assets in the account were illegally seized, and he was not afforded due process. Plaintiff seeks the return and/or "unfreezing" of the assets in the Merrill Lynch account.

12. ***Bradley Pelton v City of Troy***. Plaintiff has filed this claim and delivery action in the 52-4 District Court seeking return of several firearms that were seized from his home by the Troy Police. The City has filed an Answer and a Response to Plaintiff's Motion for Possession. A hearing is scheduled for July 25, 2013 on Plaintiff's motion for possession.

13. ***Daniel E. Katayama v City of Troy.*** Plaintiff filed this lawsuit under the Freedom of Information Act (FOIA) claiming that the City did not fully comply with a FOIA request he submitted on March 26, 2013. Plaintiff's FOIA request sought particular documents related to his arrest on suspicion of driving while

intoxicated. The City filed an Answer to the Complaint, and the parties are conducting discovery.

14. ***Center City Tennis v. City of Troy*. Center Court Tennis has filed this lawsuit, challenging the City's contract with Troy Racquet Club, which does not expire until 2018. Prior to filing this lawsuit, Center City Tennis wrote a letter to City Administration and each of the individual City Council members, expressing interest in providing the services that have been provided by Troy Racquet Club since at least 1998. Center Court Tennis filed a similar lawsuit against the City of Birmingham. In this lawsuit, Plaintiff alleges that the City violated the Charter by refusing to accept competitive bids for the operation of the tennis bubble/tennis courts and tennis lessons, including the "bid" from Center Court Tennis, or in the alternative, the City violated the City Charter by allegedly failing to provide a public referendum process. As the City's first responsive pleading, we filed a Motion for Summary Disposition. Oakland County Circuit Court Judge Denise Langford Morris has scheduled the oral argument on this motion for August 28, 2013.**

G. CRIMINAL APPEALS/ DISTRICT COURT APPEALS

These are cases involving an appeal from a decision of the 52-4 District Court in an ordinance prosecution case.

1. People v John Haggarty. The Defendant was arrested for operating while intoxicated after he was found in a parked vehicle with its engine running near the vacuum stations at a car wash. Police investigation revealed the Defendant was intoxicated. The Defendant filed a motion to dismiss, claiming there was insufficient evidence the Defendant operated the vehicle on a public road or any place open to the general public or generally accessible to motor vehicles. After an evidentiary hearing, District Court Judge Bolle denied the Defendant's motion, allowing the criminal case to proceed to a jury trial. The Defendant appealed that decision to the Oakland County Circuit Court. The assigned judge, Judge Rae Lee Chabot, denied Defendant's requested relief on July 20, 2011. The Defendant has now filed an Application for Leave to Appeal in the Michigan Court of Appeals. The City timely filed its response by the September 27, 2011 deadline. The parties are now waiting for the Michigan Court of Appeals to decide whether to allow the requested appeal. On April 13, 2012, the Court of Appeals granted Defendant's Application for Leave to Appeal. The Defendant has filed a Brief on Appeal. The City's Brief on Appeal is due June 25, 2012. The Court entertained oral arguments, and issued a written order affirming the District Court Judge and the City's position on September 27, 2012. The criminal case has now been remanded to the District Court. The Defendant filed an application requesting leave to appeal with the Michigan Supreme Court. The District Court has stayed the proceedings pending the decision. The parties are waiting on a decision from the Michigan Supreme

Court as to the requested leave to appeal. **The Michigan Supreme Court denied the application for leave to appeal, ruling in favor of the City. The case has now been remanded to the 52-4 District Court for the criminal trial.**

2. *People v Tyler Price*. The Defendant was arrested for operating while intoxicated after a Troy police officer observed Defendant speeding on Maple Road and then abruptly stop in the middle of the road after turning onto a side street. Defendant refused to submit to a preliminary breath test, but after failing sobriety tasks, he was arrested. At the police station, Defendant was given a blood test, and lab results revealed a blood alcohol level of 0.24. Defendant filed a motion to suppress the blood test, challenging that the police officer had no basis for the traffic stop. His motion was denied, and the case proceeded to a bench trial, where Defendant was found guilty. On March 13, 2013, Defendant filed a claim of appeal in the Oakland County Circuit Court, Judge James M. Alexander. **Both parties have fully briefed the issues raised on appeal, and oral argument is scheduled for July 31, 2013.**

3. *People v. Rodger Walters.* Rodger Walters, who resides on Boyd Street, was cited for impeding traffic by standing in the middle of the roadway as the International Academy students were leaving for the day. Mr. Walters had an attorney representing him for a formal hearing before Judge Kirsten Nielsen Hartig, who ultimately found him responsible for the civil infraction. The next day, Mr. Walters, on his own behalf, filed an appeal with the Oakland County Circuit Court, Judge Leo Bowman. **Mr. Walters has also filed a complaint with the Michigan Department of Civil Rights, alleging that the City discriminated against him by refusing to post additional "No Outlet" signs near his home.**

4. ***People v Ou Lian Shuai.*** **Ms. Shuai was criminally charged with filing a false police report and illegal use of a telecommunication device. As part of these criminal proceedings, Ms. Shuai was referred for examination with Dr. Chiarina G. Owens, Ph.D., of the Michigan Department of Community Health, Center for Forensic Psychiatry. Dr. Owens testified that Ms. Shuai was incompetent to stand trial and ordered her committed to the Center for Forensic Psychiatry for treatment. 52-4 District Court Judge William E. Bolle agreed with Dr. Owens, and ordered her committed. Ms. Shuai, through her attorney, served the City with a claim of appeal from Judge Bolle's determination.**

5. ***People v. Blake James.*** **Mr. James filed an appeal challenging the decision in his criminal case before 52-4 District Court Judge Kirsten Nielsen Hartig. He filed his appeal in the Oakland County Circuit Court. Judge Leo Bowman dismissed this appeal on May 30, 2013.**

ADMINISTRATIVE PROCEEDINGS

1. *In the matter of the Petitions on National Pollution Discharge Elimination Systems (NPDES Phase II General Permits).* The City has joined several other municipalities in challenging several of the mandates in the NPDES Phase II General Permit, which was recently issued by the MDEQ. The new NPDES permit requires some storm water management techniques that exceed the federal mandates, and/or are not justified, based on the high cost of the mandate, in relation to the nominal environmental benefits. A status conference for the parties is set for October 1, 2008. The municipalities are currently exploring the coordination of efforts with other parties. Community representatives are meeting with representatives from the MDEQ to discuss possible resolutions of this matter without the necessity of a full blown administrative hearing. The parties are continuing to negotiate with the MDEQ. The City of Riverview filed a class action complaint in the Ingham County Circuit Court, challenging the permit requirements as unfunded mandates. The petitioners to the NPDES permit administrative proceeding are named as participants in the proposed class action lawsuit. As a result, the class action determination may have an impact on the administrative proceeding. The motion for class certification is scheduled for October 15, 2009. Class certification was granted. Hearings regarding the procedure for the new class action are set for January 2010. The Court granted class action status, and the administrative proceedings are now being delayed. Status reports have been filed and reviewed, and we continue to monitor any new developments. On October 14, 2010, the Michigan Court of Appeals reversed the order granting a stay of the contested cases. On November 19, 2010, the Ingham County Circuit Court (the class action lawsuit) entered an order granting in part the dismissal of some of the claims. The remaining claims, including a Headlee claim, will be decided by the Court. Subsequently, the Assistant Attorney General, on behalf of the Michigan Department of Natural Resources and Environment (MDNRE) attempted to withdraw all of the remaining NPDES permits, which would mean that the whole process would need to be started from scratch. Since this action would likely result in a significant delay and a duplication of all efforts to date, several municipalities filed objections to this unilateral action. The MDNRE was given until December 22, 2010 to file a formal motion seeking a dismissal of the remaining NPDES permits. On August 9, 2011, the Administrative Law Judge held the case in abeyance, due to pending case at the Michigan Court of Appeals. The parties will continue to provide status reports in the interim. The Court is continuing to receiving status reports, with the next one due on December 19, 2012. Status reports were timely filed on January 6, 2013 and March 22, 2013. **Additional status reports were submitted on June 24 and 25, 2013.**

If you have any questions concerning these cases, please let us know.