

Koryzno, Edward (Treasury)

From: Workman, Wayne (TREASURY)
Sent: Thursday, January 22, 2015 12:54 PM
To: Headen, Frederick (Treasury); Koryzno, Edward (Treasury); Byrne, Randall (Treasury)
Cc: Saxton, Thomas (Treasury); Stanton, Terry A. (Treasury); Gelisse, Ashley (TREASURY); Stibitz, Brom (Treasury); Dempkowski, Angela (Treasury)
Subject: RE: Fernanders v Wright, et al

Angela, please a call for us to discuss early next week. Thank you Fred

From: Headen, Frederick (Treasury)
Sent: Thursday, January 22, 2015 12:27 PM
To: Workman, Wayne (TREASURY); Koryzno, Edward (Treasury); Byrne, Randall (Treasury)
Cc: Saxton, Thomas (Treasury); Stanton, Terry A. (Treasury); Gelisse, Ashley (TREASURY); Stibitz, Brom (Treasury); Dempkowski, Angela (Treasury)
Subject: RE: Fernanders v Wright, et al

Wayne:

I now have had an opportunity to review the complaint and attached exhibits. The complaint asserts that the City's drinking water is contaminated and seeks a temporary restraining order, although of what is not quite clear. The lack of clarity may be due in part to the plaintiff, who describes himself as indigent, acting *in pro per* (i.e., representing himself).

Also unclear is why Darnell was named as a defendant. There is in the complaint no mention of Act 436, nor any assertion that the plaintiff is aggrieved by any action, or inaction, on Darnell's part. However, because it appears Darnell was named in his official capacity as then Emergency Manager, it is likely the plaintiff will amend his complaint to substitute the current Emergency Manager, Jerry Ambrose, as a defendant.

Given the absence in the complaint of any reference to Act 436, or to any action, or inaction, under that Act, there does not appear to be, in a strictly statutory sense, any basis to request Attorney General representation for either Darnell or Jerry. I spoke with Pete and he concurred. However, he and I also decided to re-read the complaint to satisfy ourselves we have not missed anything upon this point.

The four corners of the Act notwithstanding, there may be prudential grounds for requesting involvement by the Attorney General's Office. However, because I think it advisable not to reduce those grounds to writing, I would prefer to discuss at your convenience.

I will forward a copy of the complaint to Darnell.

Fred

From: Workman, Wayne (TREASURY)
Sent: Thursday, January 22, 2015 10:28 AM
To: Headen, Frederick (Treasury); Koryzno, Edward (Treasury); Byrne, Randall (Treasury)
Cc: Saxton, Thomas (Treasury); Stanton, Terry A. (Treasury); Gelisse, Ashley (TREASURY); Stibitz, Brom (Treasury); Dempkowski, Angela (Treasury)
Subject: RE: Fernanders v Wright, et al

Thank you.

From: Headen, Frederick (Treasury)
Sent: Thursday, January 22, 2015 10:25 AM
To: Workman, Wayne (TREASURY); Koryzno, Edward (Treasury); Byrne, Randall (Treasury)
Cc: Saxton, Thomas (Treasury); Stanton, Terry A. (Treasury); Gelisse, Ashley (TREASURY); Stibitz, Brom (Treasury); Dempkowski, Angela (Treasury)
Subject: RE: Fernanders v Wright, et al

Wayne:

It depends upon the circumstance. Per the Act, the Attorney General's Office is required to defend any cause of action involving any of the following:

- (a) The validity of this act.
- (b) The authority of a state official or officer acting under this act.
- (c) The authority of an emergency manager if the emergency manager is or was acting within the scope of authority for an emergency manager under this act.

I will need to review the document that Pete forwarded to determine the nature of Darnell's involvement.

Fred

From: Workman, Wayne (TREASURY)
Sent: Thursday, January 22, 2015 10:17 AM
To: Koryzno, Edward (Treasury); Headen, Frederick (Treasury); Byrne, Randall (Treasury)
Cc: Saxton, Thomas (Treasury); Stanton, Terry A. (Treasury); Gelisse, Ashley (TREASURY); Stibitz, Brom (Treasury); Dempkowski, Angela (Treasury)
Subject: FW: Fernanders v Wright, et al

Would the EM usually be defended by the AG or a SAAG?

From: Peter Bade [<mailto:pbade@cityofflint.com>]
Sent: Thursday, January 22, 2015 9:20 AM
To: Workman, Wayne (TREASURY); Headen, Frederick (Treasury); Byrne, Randall (Treasury); Gerald Ambrose; Flint Mayor
Subject: Fernanders v Wright, et al

Gentlemen: I'm forwarding the attached motion for temporary restraining order that was filed in federal court. Darnell Earley is a named defendant. I am writing to seek guidance on whether the Attorney General will be representing him.

I do not have Darnell's new email address. I left a message on his cell phone this morning. I'm not sure if he's been served.

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Peter M. Bade
Chief Legal Officer
City of Flint