

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF BAY

CYNTHIA A. LUCZAK, BAY COUNTY
CLERK,

Plaintiff,

Bay County Case No.
15-3583-AW

v

Hon. Paul H. Chamberlain

THOMAS L. HICKER, Bay County
Executive, BAY COUNTY BOARD OF
COMMISSIONERS, 18th JUDICIAL
CIRCUIT COURT, and KIM MEAD, Bay
County Circuit Court Administrator,

FILED

MAR 21 2016

Defendants.

ISABELLA COUNTY CLERK
MT. PLEASANT, MICH.

**ORDER STRIKING DEFENDANTS' MOTION, ORDER FOR RESPONSES TO
PLAINTIFF'S MOTION FOR RECONSIDERATION AND NOTICE OF HEARING**

On February 5, 2016, this court issued an opinion granting defendants' motion for summary disposition as to Counts I, III, and IV. On February 26, 2016, plaintiff filed a motion for reconsideration of the court's opinion. On March 10, 2016, defendants filed a motion to strike plaintiff's motion for reconsideration and noticed said motion for hearing on April 29, 2016. Under MCR 2.119(F)(2), no response to the motion for reconsideration may be filed, and there is no oral argument, unless the court otherwise directs. Defendants' motion to strike plaintiff's motion for reconsideration is essentially a response to plaintiff's motion that is not permitted unless directed by the court. As the court did not previously direct defendants to respond to plaintiff's motion, the court strikes defendants' motion to strike plaintiff's motion for reconsideration, therefore a hearing on said motion will not be held on April 29, 2016.

One issue defendants raised in the motion to strike plaintiff's motion for reconsideration is that the motion for reconsideration was not the proper means for considering the constitutionality of the Uniform Budgeting and Accounting Act, MCL 141.438. However, in the court's February 5, 2016 opinion, the court brought up this constitutional issue and declined to rule on it because the parties had not briefed the issue. The court finds that a motion for reconsideration pursuant to MCR 2.119(F)(3) is the proper means for considering the constitutional issue as it presents issues that have not yet been ruled on by the court. The court is allowing a response and oral arguments on plaintiff's motion for reconsideration pursuant to MCR 2.119(F)(2). Therefore, the court orders defendants to file a response to plaintiff's motion for reconsideration within 14 days after being served with this order. Plaintiff has 7 days to file a response after being served with defendants' response. This court shall hear oral arguments on plaintiff's motion for reconsideration on April 21, 2016 at 1:15 p.m.

THEREFORE IT IS ORDERED that defendants' motion to strike plaintiff's motion for reconsideration is stricken and the hearing thereon scheduled for April 29, 2016 is canceled.

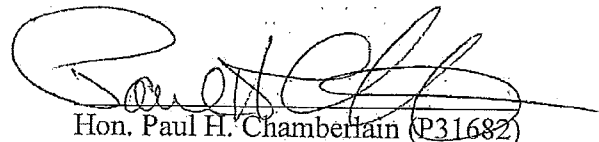
IT IS FURTHER ORDERED that defendants shall file a response to plaintiff's motion for reconsideration concerning constitutional issues and any other issues within 14 days after being served with this order.

IT IS FURTHER ORDERED that plaintiff shall have 7 days to file a response concerning constitutional issues and any other issues after being served with defendants' response.

IT IS FURTHER ORDERED that the court shall hear oral arguments on plaintiff's motion for reconsideration on **April 21, 2016 at 1:15 p.m.**

This order does not resolve the last pending claim or close the case.

Date: March 21, 2016

A handwritten signature in black ink, appearing to read "Paul H. Chamberlain", written over a horizontal line.

Hon. Paul H. Chamberlain (P31682)
Chief Judge
Isabella County Trial Court