

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

LEE ANN GASPAR, RICHARD  
HETHERINGTON and DAVID WINCH,

Plaintiffs,

v.

DAVID DICKS, INDIVIDUALLY AND  
IN HIS OFFICIAL CAPACITY AS  
CHIEF OF POLICE OF THE FLINT  
POLICE DEPARTMENT, and  
the CITY OF FLINT,

Defendants.

Case No.:

Judge:

Magistrate Judge:

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**VERIFIED COMPLAINT FOR INJUNCTIVE, DECLARATORY AND OTHER RELIEF**

Now Come Plaintiffs, Lee Ann Gaspar, Richard Hetherington and David Winch, by and through their attorneys, and in support of their Verified Complaint for Injunctive, Declaratory and other relief against Defendants, state as follows:

### **INTRODUCTION**

1. In this 42 U.S.C. §1983 action for equitable relief and damages, Plaintiffs challenge the constitutionality of a Flint Police Department policy prohibiting police officers from speaking to the news media about “any information regarding the department and/or its employees.” (Exhibit 1). Plaintiffs assert that the policy violates the First Amendment to the Constitution on its face and as applied. Plaintiffs seek an order declaring the policy unconstitutional. Plaintiffs also seek a temporary restraining order, preliminary injunction, and upon final hearing, permanent injunction enjoining its enforcement. Plaintiffs Hetherington and Winch also claim they were disciplined under the policy in violation of their First and Fourteenth Amendment rights and they seek equitable relief and damages to make them whole for these violations.

### **PARTIES, JURISDICTION AND VENUE**

2. Plaintiff Lee Ann Gaspar is employed as a sergeant with the City of Flint Police Department in its homicide division, and serves as a steward for the collective bargaining unit representing sergeants employed by the City of Flint Police Department.
3. Plaintiff Richard Hetherington is employed as a sergeant with the City of Flint Police Department, and serves as president of the collective bargaining unit representing sergeants employed by the City of Flint Police Department.

4. Plaintiff David Winch is employed as a lieutenant with the City of Flint Police Department, and serves as president of the collective bargaining unit representing lieutenants and captains employed by the City of Flint Police Department.
5. Defendant David Dicks is a resident of the County of Genesee, State of Michigan. Defendant Dicks was recently appointed Acting Chief of Police of the City of Flint Police Department. At all times complained herein, Defendant Dicks was acting under color of law in his capacity as the Acting Chief of Police of the City of Flint Police Department. Defendant Dicks is the “acting chief” instead of “chief” because while he has been appointed by the Mayor, he has not been confirmed by the City Council.
6. Defendant City of Flint is a city organized under the constitution and laws of the State of Michigan and is a political subdivision of the State of Michigan.
7. Jurisdiction is proper under 28 U.S.C. §§1331 and 1343 because federal questions are presented under the First and Fourteenth Amendments of the United States Constitution.
8. Venue is proper under 28 U.S.C. §§1391(b)(1) and (2) because this is the judicial district where the Defendants reside and where a substantial part of the events or omissions giving rise to the claims occurred or will occur.

#### **GENERAL ALLEGATIONS**

9. On or about, June 2008, the Mayor of Flint appointed a father and son to act as a police chief “team” for the City of Flint Police Department. David Dicks was appointed as Acting Chief of Police, and, simultaneously, David’s father Richard Dicks, was appointed as “super chief” to oversee both the police and fire departments. These appointments became a matter of public controversy in the Flint area media for a number of reasons. One reason was the

“father and son” nature of the appointments. Another reason was that the appropriate Flint City bodies had not approved the appointments and the father and son nature of the relationship was claimed to be a violation of Flint ordinances. Additionally, Richard Dicks and David Dicks were being investigated by the Federal Bureau of Investigation when his appointment was made. Further, Defendant David Dicks was appointed to the highest rank in the department directly from serving in the lowest ranking position of police officer. Finally, there was additional controversy over whether Defendant David Dicks was qualified to hold the position of chief of police due to the fact that he had been convicted of a criminal driving offense, terminated from the Flint Police Department as a result of this conviction, and subsequently reinstated.

10. Around the same date the Mayor made another controversial appointment by appointing Dave Forystek, who had been employed as a sergeant, to the position of deputy chief of police. Representatives of certain police unions believed this appointment to be in breach of collective bargaining agreements between the City of Flint and unions representing Flint Police Department employees.
11. Other public controversies surrounding the Flint Police Department at the time of the appointments concerned the large number of police layoffs and an increase in the crime rate in the City of Flint.
12. On or about June 5, 2008, while off duty, Plaintiff Hetherington was contacted by a Flint Journal reporter and asked his opinion about the new mayoral appointments. Hetherington expressed concern that the appointments threatened the reputation of the Flint Police Department.

13. On or about June 7, 2008, Plaintiff Winch was contacted by a Flint Journal reporter and asked his opinion about the new mayoral appointments. Winch told the reporter that he was checking to see if the appointment violated the union collective bargaining agreement and that the union was considering filing a grievance.
14. The story quoting Plaintiff Hetherington was published on June 6, 2008. On the same day, Defendant Dicks issued the following memo to Lt. Speedy demanding Hetherington's suspension:

Subject: suspension.

**I hereby order you to request a 5 by 8 from Sergeant Richard Hetherington for making statements to the media on June 6, 2008.** Also, Officer Karl Petrich shall leave a 5 by 8 for making statements to the media on June 2, 2008. **After doing so the above named officers will be suspended immediately for two days without pay** starting Saturday, June 7, 2008 for the violation of rules and regulations 77-5/002.2-1 responsibility for the release of information. See attached rules and regulations.

Signed: Chief of Police David Dicks. (Emphasis added). (Exhibit 2).

15. Instead of immediately suspending the officers, Lt. Speedy directed Lt. Patterson to have the officers leave "5 by 8's" which refer to Departmental documents used to respond to discipline. (See Exhibit 2). On June 7, 2008, Hetherington responded to the Chief of Police by stating the following in a "5 by 8":

Sir: I'm allowed to talk with the media as president of the Flint police sergeant's association. (See Exhibit 3).

16. On June 9, 2008, Interim Deputy Chief Dave Forystek created an incident report to be investigated by Internal Affairs which stated in pertinent part:

Chief David Dicks met with me in my Division of Inspections office. **Chief Dicks directed me to leave an incident report regarding Sgt. Richard Hetherington speaking with the media (Flint Journal) on**

**6/06/08, and referred me to FPD rules and regulations No. 5/00 2.2-1 Responsibility for the Release of Information.** (Emphasis added). (See Exhibit 4).

17. The Flint Police Department rules and regulations No. 5/00 2.2-1 referred to in Forystek's report provide in pertinent part:

5/00 2.2-1 Responsibility for the Release of Information. The responsibility for the release of information to the news media shall be placed upon supervisors, investigators in charge of cases command officers, or the Chief of Police, depending on the following circumstances:

1. Information regarding traffic accidents shall be relayed to the news media by traffic section supervisors.
2. Information concerning a crime shall be relayed to the news media by the investigator in charge of the case.
3. Information concerning the personnel of the department or information concerning departmental policy shall be relayed to the news media by the Chief a Police or his designee.

The authority to notify the news media concerning a criminal case or an incident involving police attention is vested in the bureau commanders in the Chief of Police. Other officers shall not take it upon themselves to notify the news media concerning a happening without first receiving the approval of their bureau commander or the chief of police. Bureau commanders shall not make notification of information to the news media when such information does not concern the activities of their respective bureau. Command duty officers and command duty supervisors may make notification to the news media of information which is outside of their realm of bureau responsibility during the time that they are serving in the command officer or command supervisor capacity.” (See Exhibit 5).

The official policy in effect interpreting the above rule when Hetherington spoke to the press on June 6, 2008, provided:

Flint Police Department recognizes the right of employees to voice their opinion to the media regarding incidents occurring on the local, state, or national level. However, in some instances confusion has arisen as to whether the employee is or was voicing their personal opinion or the opinion or policy of the Flint Police Department. In order to clarify this situation all employees voicing their opinion to

the media will so state that it is their opinion and not the opinion or policy of the Flint Police Department. All statements regarding Departmental Policy or Operations will continue to be referred to the Chief of Police Office. This directive is effective immediately. Clydell Duncan, Chief of Police. (See Exhibit 6).

18. On June 9, 2008, Defendant David Dicks changed the official policy interpreting the FPD rules and regulations No. 5/00 2.2-1 and issued a directive to “All Bureau Commanders” entitled: “Responsibility for the Release of Information (Rules and Regulations 5/002.2-1).” This directive ordered Bureau commanders to obtain signatures of all officers showing receipt of this memo. Attached to this directive was a memo from the Acting Chief to “All Sworn Personnel” which stated:

Subject: Release of Information

**No member of the department shall speak to or release any information regarding the department and/or its employees to the news media.** This shall be in accordance with the Flint Police Department’s Rules and Regulations #5/002.2-1 Responsibility for the Release of Information. Signed: David Dicks Chief of Police (See Exhibit 1).

19. On June 9, 2008, Plaintiffs Gaspar, Hetherington and Winch received the aforementioned memorandum in their internal employee mailboxes and became aware of the new interpretation of the rules and regulations by Defendant Dicks.
20. The incident report concerning Plaintiff Hetherington’s statement created by Interim Deputy Chief Dave Forystek was investigated by Flint Police Department Lt. Beth Whaley of Internal Affairs. Lt. Whaley concluded the media statement made by Plaintiff Hetherington did not violate the official policy interpretation of the Flint Police Department’s Rules and Regulations #5/002.2-1 Responsibility for the Release of Information in effect at the time Hetherington made the statement on June 6, 2008. Since Defendant Dicks’ policy did not

go into effect until after Hetherington's statement was made, Lt. Whaley concluded that there was no rule violation, and that the discipline should not be sustained. (See Exhibit 7).

21. Defendant Dicks, however, disagreed with Lt. Whaley's findings and ordered Hetherington to serve a 2-day suspension without pay. (See Exhibit 7).
22. On June 11, 2008, Plaintiff Winch was formally disciplined by Defendant Dicks. Plaintiff Winch received a verbal warning for violating the new policy banning media contact for making his statement to the media suggesting the appointment of the Interim Deputy Chief could be a violation of the collective bargaining agreement. Like the Hetherington discipline, the Winch discipline was issued for statements Winch made before the June 9, 2008 memo was issued by Dicks.
23. On July 24, 2008, Plaintiffs' counsel wrote a letter to the Defendants advising them of their opinion that the policy embodied in the June 9, 2008 memo banning media contact was unconstitutional and requesting that they agree not to enforce the ban. Defendants responded with a letter stating they would review the matter.
24. Plaintiff Hetherington is active with a civic organization known as the "Committee for a Better Flint," an organization that, among other things, supports the recall of Flint's current mayor. On August 12, 2008, Hetherington was contacted by a television reporter and asked to comment on information received from other sources that an off duty police officer who served on the same committee was transferred to a less desirable position within the police department after being observed by the Mayor and Acting Chief of Police gathering signatures on a petition to recall the Mayor. Hetherington was interviewed while he was off duty, and before responding to the reporter, Hetherington made it clear that his response was

as a citizen and member of the Committee for a Better Flint. Hetherington told the reporter that it was his opinion that the transfer was an act of intimidation which violated the First Amendment of the Constitution. Hetherington also told the reporter that he planned to challenge the constitutionality of the gag rule in Defendant Dick's June 9, 2008 memo. Defendant Dicks, who was also interviewed for the story, denied any violation of the transferred employee's First Amendment rights.

25. On the day after Hetherington's comment, Defendants directed another internal affairs investigation of Hetherington by a different internal affairs investigator. The internal affairs investigator concluded that Hetherington had violated the Acting Chief's memo by making comments to the television reporter on August 12, 2008. Defendant Dicks concurred with the investigator and issued a notice terminating Hetherington. (Exhibit 8).
26. On August 21, 2008, Hetherington was notified by certified mail that his employment was terminated. The notice stated that his comments to the television reporter violated the Chief's June 9, 2008 memo forbidding media contact. (Exhibit 8).
27. On the same day, the Flint Police Department informed all police officers that Hetherington had been fired by placing in their mailboxes a duty roster with a notation, "Hetherington, Richard - Fired." Notice of a departmental employee's discharge has never been communicated to departmental employees in this manner in the past.
28. On August 22, 2008 Flint area media criticized Hetherington's termination. On August 23, 2008, Hetherington received a hand-delivered notice that his termination was rescinded effective immediately. (Exhibit 9).
29. The acts and omissions set forth above were committed by Defendant Dicks with the intent

to violate Plaintiffs' legal rights or with a reckless disregard and/or callous indifference for Plaintiffs' legal rights.

30. Defendants' official policy stating, "no member of the department shall speak to or release any information regarding the department and/or its employees to the news media" continues to be the policy of the Defendants.

31. This policy has had, and continues to have, a chilling effect on Plaintiff Hetherington's protected speech in several respects:

a. This policy has prevented Plaintiff Hetherington from giving his opinion on a recent controversy concerning the effect of recent layoffs on response time. The City of Flint mayoral administration has laid off numerous police officers as part of an ongoing budget cut battle with City Council. This has generated concern over safety issues in the City of Flint. Hetherington was contacted by the media and was asked to provide an opinion as to whether the reduction in police officers has resulted in slower response times. A local television station offered to conduct a disguised interview, with blocked image and a voice over, in order to prevent him from being identified. However, because of Hetherington's concern that the Acting Chief's June 9, 2008 memo will be used to further discipline him if he speaks to the media about this issue, he has declined to speak to the media. Had he been able to speak, Hetherington would have expressed his concern that the layoffs have significantly depleted the number of officers responding, thereby causing slower response times and jeopardizing the safety of the public. He would have indicated that the combination of the reduction in the police force and the reassignments has resulted in a prioritization process that has caused much slower response times for all calls except those with the highest priority.

b. This policy has prevented Plaintiff Hetherington from responding to media calls on a recent controversy concerning the appointment of Michael Vance who had been terminated from employment by the Flint Police Department several years ago. Vance had been cited for a very serious violation of the rules. The union stopped short of arbitrating Vance's grievance after deciding the grievance could not be won. At the time the grievance was being exhausted, the City of Flint Personnel Director had derogatory things to say about Vance's character. However, after Vance campaigned actively for the Flint mayor's re-election and secured a family endorsement for the mayor, Vance was hired by the City into an administrative position with funding from the Police Department budget, in spite of the fact that the City

of Flint recently laid off forty eight police officers. Vance cannot even be certified as a police officer because the agency in Michigan that certifies officers will not certify him.

- c. Hetherington was contacted by the media and asked to provide an opinion on the appointment of Vance. However, because of Hetherington's concern that the Chief's order will be used to further discipline him if he speaks to the media about this subject matter, he has declined to speak to the media. Had he been able to speak, Hetherington would have criticized the appointment, stating that this appointment is detrimental to the public safety of the City of Flint because the City has chosen to use police funds for Vance, an individual who is not even certifiable as a police officer, instead of using those funds towards the hiring or retention of one more officer to protect the public.
- d. This policy has also prevented Plaintiff Hetherington from responding to media requests about a recent controversy concerning the enforcement of the Chief of Police's Sagging Pants Memorandum, which has garnered not only national media attention, but also international attention. On June 26, 2008, Acting Chief Dicks issued a memorandum declaring that the sagging pants style is "immoral self-expression" and authorized all sworn personnel to arrest persons who are wearing that style for the crime of indecent exposure. After issuing the memo, the Defendant Dicks escorted a *Detroit Free Press* reporter and a Free Press videographer around the City of Flint in a police cruiser, in order to demonstrate how he planned to enforce his prohibition on sagging pants. When Defendant Dicks spotted young men wearing sagging pants, he exited his cruiser to stop and frisk the young men. Even if their jerseys came down below the waistline of their pants, Defendant Dicks lifted the young men's jerseys to expose the top of their boxer shorts and warned them that they were violating indecent exposure laws. (See *Free Press* video, <http://www.freep.com/apps/pbcs.dll/article?AID=/20080708/VIDEO01/80708074/1008/NEWS06>). Because of Hetherington's concern that Defendant Dick's June 9 policy would be used to further discipline him if he spoke to the media about the sagging pants controversy, he has declined to speak to the media. Had he been able to speak, he would have indicated that a police officer is generally under an obligation to "obey and grieve" when issued an order that s/he questions, unless the order is illegal. He would have further expressed concern that Dick's directive on sagging pants may be found to be unconstitutional and therefore illegal. If that were the case, he would have expressed an opinion to the media that this potentially placed members of his bargaining unit in jeopardy by requiring them to face criminal and/or civil sanctions for carrying out an unconstitutional order.

32. The gag rule in the June 9 memo has prevented Plaintiffs Gaspar and Hetherington from

giving their opinion on a recent controversy concerning an increase in the City of Flint homicide rate. The homicide rate for the City of Flint has increased substantially since the recent layoff of numerous police officers. Gaspar and Hetherington would like to speak to the press and offer their opinions that the spike in homicides could be related to the reduction in officers. If there were no ban on media contact, they would express the opinion that there is harm to the safety of the City when police presence is reduced. They would point out that the reduction in staff in their bargaining unit reduces the number of detectives available causing a detrimental effect on the City's ability to solve homicides. Plaintiffs Gaspar and Hetherington would also point out to the press that the increase in homicides coupled with the reduction in force has had a detrimental effect on the City's ability to investigate and solve less serious crimes because the spike in homicides taxes the existing police personnel across the board, resulting in fewer resources to devote to the investigation and solution of other crimes. Plaintiff Gaspar would also like to inform the press that she believes that due to staff reduction there is no proactive policing, as officers are merely responding to calls, and therefore are in reactionary mode. Gaspar and Hetherington have not expressed their opinion on these issues because of the Acting Chief's ban on media contact.

33. This policy has prevented Plaintiffs Hetherington and Winch from giving their opinion on a recent controversy concerning the Administration's threat to delay payment of earned overtime compensation. Recent layoffs have resulted in a significant amount of earned overtime by officers not laid off. The Administration has threatened to hold payments of overtime and not pay the overtime that has been earned when it is due. Both Plaintiffs are of the opinion that if this threat were carried out it would violate the Michigan wage hour laws.

Both Hetherington and Winch would like to contact the media and express their opinion that this proposal violates the City's contractual obligations as well as the law but they have refrained from expressing this opinion as a result of the Defendants' policy banning media contact.

34. Since his initial comment about the impropriety of the appointment of Interim Deputy Chief Forystek and the issuance of Defendants' ban on media contact, Plaintiff Winch has been contacted by the press about the status of this issue but he has refrained from commenting on it because of the Defendants' policy. Had he been allowed to comment on this issue, he would have expressed concern that this appointment jeopardizes the public safety of the City because the collective bargaining agreement limits those eligible for promotion into command positions such as deputy chief to those officers who are in lieutenant or captain positions. Winch would have advised the media that the reason for this limitation is that these individuals have an established track record in command positions which establishes they are qualified for command positions. Winch would have expressed the opinion that bypassing this process jeopardizes the public safety of the City because it could result in an unqualified person serving in the position of deputy chief.
35. This policy has prevented Plaintiff Gaspar from giving her opinion regarding the recent controversial termination of Sergeant Hetherington. Had she been allowed to comment on this issue, she would have expressed her opinion that the termination was retaliatory and unfair. Gaspar would have pointed out that Hetherington made his statement to the press as a member of the Committee for a Better Flint, and as a private citizen. She would also have said that Hetherington's voice should not be silenced merely because his opinion differs

from the chief and the mayor.

36. The chill on Plaintiff Gaspar's speech has been intensified, considering the discipline received by Plaintiffs Hetherington and Winch, as well as the recent termination of Hetherington. After Hetherington's recent termination and reinstatement, Plaintiff Gaspar would have been an appropriate member of the sergeants' bargaining unit to speak on this issue. Because of the policy, she was unable to comment about the termination to the media, or any other matters related to the bargaining unit.

### COUNT I

#### **THE JUNE 9, 2008 MEMO BANNING MEDIA CONTACT VIOLATES THE FIRST AMENDMENT AND 42 U.S.C. § 1983**

37. Plaintiffs hereby re-allege and incorporate paragraphs 1-36 above as if fully alleged herein.
38. Defendants' official ban on media contact, embodied in the June 9, 2008 memorandum chills the the exercise of free speech protected by the First Amendment to the United States Constitution.
39. The aforementioned policy violates free speech rights and associational rights of the Plaintiffs under the First Amendment of the United States Constitution
40. Absent injunctive relief, Plaintiffs and others will continue to be hindered and chilled from exercising their protected free speech.
41. There exists no adequate remedy at law.

## COUNT II

### **DEFENDANTS' DISCIPLINE OF PLAINTIFFS HETHERINGTON AND WINCH VIOLATED THEIR RIGHTS UNDER THE FIRST AMENDMENT**

42. Plaintiffs hereby re-allege and incorporate paragraphs 1-41 above as if fully alleged herein.
43. The discipline of Plaintiffs Hetherington and Winch for exercising their right to speak to the media in their private capacity as citizens about matters of public concern was a violation of their rights under the First Amendment to the Constitution of the United States.
44. As a direct and proximate result of Defendants' wrongful acts, enumerated in the paragraphs above, Plaintiffs Hetherington and Winch have suffered humiliation and emotional distress, Hetherington has lost wages, and both Plaintiffs have lost and will lose the value of other benefits of employment with Defendants.

## COUNT III

### **DEFENDANTS VIOLATED HETHERINGTON'S AND WINCH'S DUE PROCESS RIGHTS UNDER THE FOURTEENTH AMENDMENT AND 42 U.S.C. § 1983**

45. Plaintiffs hereby re-allege and incorporate paragraphs 1-44 above as if fully alleged herein.
46. Defendants disciplined both Plaintiff Hetherington and Plaintiff Winch under the new policy set forth in the June 9, 2008 memorandum for statements they made to the media prior to June 9.
47. Under the police department policy that was in effect prior to June 9, 2008, Plaintiffs were not prohibited from speaking to the media in their capacity as private citizens and making the statements that they made.

48. Defendants violated Plaintiff Hetherington and Plaintiff Winch's right to due process under the Fourteenth Amendment by punishing them for violating a policy that did not exist when the statements were made.

**PRAYER FOR RELIEF**

Plaintiffs request that this Honorable Court provide the following relief:

- A. Declare the policy contained in the June 9, 2008 memorandum unconstitutional in violation of the First Amendment to the Constitution of the United States;
- B. Issue a temporary restraining order, preliminary injunction and a permanent injunction enjoining Defendants from enforcing or threatening to enforce the aforementioned policy;
- C. Award Plaintiffs compensatory and nominal damages for the violation of their Constitutional rights;
- D. Award Plaintiffs Hetherington and Winch damages to compensate for lost wages and benefits;
- E. Order the correction of Plaintiffs' files for the unlawful discipline;
- F. Award Plaintiffs punitive damages to punish Defendants for the intentional violation and/or reckless disregard and/or callous indifference of Plaintiffs' constitutional rights;
- G. Enter an award of interest, costs, and reasonable attorney fees under 42 U.S.C. §1988; and
- H. Provide any other relief this Honorable Court deems equitable.

Respectfully submitted,

s/ Gregory T. Gibbs

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## JURY DEMAND

Plaintiffs demand a trial by jury on damages and all other issues so triable.

s/ Gregory T. Gibbs

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Dated: August 27, 2009

s/ Michael J. Steinberg

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s/ Sarah C. Zearfoss

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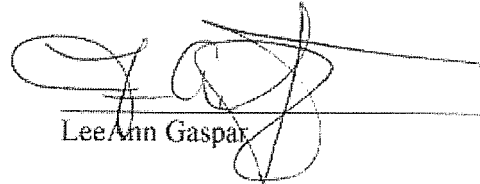
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**VERIFICATION OF PLAINTIFF LEE ANN GASPAR**

I, LeeAnn Gaspar, resident of Genesee County in the State of Michigan, hereby declare under penalty of perjury, pursuant to 28 U.S.C. Section 1746, that the allegations in the foregoing Verified Amended Complaint are true and correct to the best of my knowledge and belief.

Dated: \_\_\_\_\_

5/27/08

  
\_\_\_\_\_  
Lee Ann Gaspar

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

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RICHARD HETHERINGTON  
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DAVID DICKS, INDIVIDUALLY AND  
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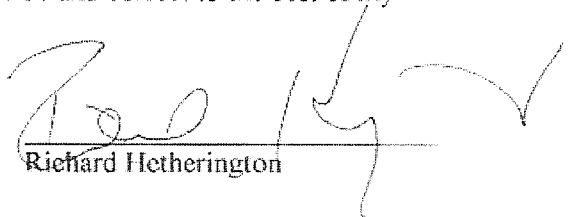
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**VERIFICATION OF PLAINTIFF RICHARD HETHERINGTON**

I, Richard Hetherington, resident of Genesee County in the State of Michigan, hereby declare under penalty of perjury, pursuant to 28 U.S.C. Section 1746, that the allegations in the foregoing Verified Amended Complaint are true and correct to the best of my knowledge and belief.

Dated: \_\_\_\_\_

8/25/08

  
Richard Hetherington

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

LEE ANN GASPAR,  
RICHARD HETHERINGTON  
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Plaintiffs,

v.

DAVID DICKS, INDIVIDUALLY AND  
IN HIS OFFICIAL CAPACITY AS  
CHIEF OF POLICE OF THE FLINT  
POLICE DEPARTMENT, and  
the CITY OF FLINT,


Defendants.

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**VERIFICATION OF PLAINTIFF DAVID WINCH**

I, David Winch, resident of Genesee County in the State of Michigan, hereby declare under penalty of perjury, pursuant to 28 U.S.C. Section 1746, that the allegations in the foregoing Verified Amended Complaint are true and correct to the best of my knowledge and belief.

Dated: 8-25-2008

  
David Winch