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

WILLIAM NOFAR, individually and as representative of a class of similarly situated persons and entities,

Plaintiff,

v-

Case Number: **2020-183155-CZ**
Honorable Nanci J. Grant

CITY OF NOVI, MICHIGAN, a municipal corporation,

Defendant,

_____/

ORDER AND OPINION

At a session of said Court, held in the Courthouse in the City of Pontiac, County of Oakland, State of Michigan on the 1st day of October, 2021,

PRESENT: HONORABLE NANCI J. GRANT, CIRCUIT JUDGE

This matter is before the Court on Defendant City of Novi's Motion for Reconsideration of this Court's July 21, 2021, Order granting Plaintiff's Motion for class certification. To be successful on a motion for reconsideration, a party must demonstrate palpable error. MCR 2.119(F)(3) provides as follows:

> [A] motion for rehearing or reconsideration which merely presents the same issues ruled on by the court, either expressly or by reasonable implication, will not be granted. The moving party must demonstrate a palpable error by which the court and the parties have been misled and show that a different disposition of the motion must result from correction of the error.

MCR 2.119(F)(3) provides that a motion for reconsideration "which merely presents the same issues ruled on by the court" will not be granted.

Here, Defendant argues that the Court failed to consider three recent Michigan Supreme Court decisions denying leave to appeal from decisions of the Court of Appeals in *Youmans v Charter Township of Bloomfield*, 961 NW2d 169 (July 6, 2021) denying leave to appeal from *Youmans v Charter Township of Bloomfield*, ____ Mich App ____, January 7, 2021 (Docket No. 348614); *Deerhurst Condominium Owners Association v City of Westland*, 961 NW2d 159 (July 6, 2021) denying leave to appeal from *Deerhurst Condominium Owners Ass'n, Inc v City of Westland*, Unpublished Per Curiam Opinion of the Court of Appeals, January 29, 2019 (Docket No. 339143); and *Bohn v City of Taylor*, 961 NW2d 187 (July 6, 2021), denying leave to appeal from *Bohn v City of Taylor*, Unpublished Per Curiam Opinion of the Court of Appeals, January 29, 2019 (Docket No. 339306). The Defendant argues that the holdings in these three cases render the Court's July 21, 2021, decision erroneous. The Court disagrees.

The Court reviewed the above-cited cases and finds that the cases do not discuss whether the respective trial courts erred in certifying a class action in a municipal rate case such as the one at bar. Rather, the cases provide legal analysis as to the **substance** of the claims that are now presented in this case. Michigan caselaw is clear that the "court should avoid making determinations on the merits of the underlying claims at the class certification stage of the proceedings." *Henry v Dow Chemical Co*, 484 Mich 483, 488 (2009). Specifically, "a court may not deny class certification on the ground that plaintiffs are unlikely to prevail on the merits of their underlying claims." *Id*. at 498.

The Court finds that it is inappropriate for it to rule on the substance of this case at this juncture. The Court notes that the holdings in *Youmans*, *Deerhurst*, and *Bohn*, supra, are more appropriately briefed in a dispositive motion rather than in a motion for reconsideration of an order certifying a class. The Court finds no palpable error.

Defendant's Motion is denied.

IT IS SO ORDERED.

Nanci J. Grant

NANCI J. GRANT, Circuit Court Judge SL