

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re Flint Water Cases.

Judith E. Levy
United States District Judge

_____ /

This Order Relates To:

ALL ACTIONS

_____ /

**ORDER REGARDING MATTERS DISCUSSED AT THE
JANUARY 11, 2018 STATUS CONFERENCE**

The Court held a status conference regarding pending Flint water litigation on January 11, 2018. Pursuant to the discussion held at that conference, the Court orders as follows:

Appearing As An Interested Party in Case No. 16-cv-10444

Counsel in all pending Flint Water litigation who have not already filed an appearance on Case No. 16-cv-10444 are ordered to file appearances as interested parties in that case by **January 19, 2018**.

To do so, counsel should proceed as follows:

1. Log in to CM/ECF, and select Civil > Notices > Appearance.
2. Enter Case No. 16-cv-10444.
3. Upload an interested party notice.

4. Select “New Attorney” and search for counsel’s name. Update your information, if necessary.
5. Select “Add Attorney,” select your name from the list, and click “Next.”
6. Select “New Filer,” search for, and add your name.
7. Select the role of “Interested Party,” and select “Add Party.”
8. Select the party you have added, and click “Next,” then “Next” again.

After January 19, 2018, all orders, notices, and other docket entries relating to Flint Water cases globally will be entered on Case No. 16-cv-10444. Orders, notices, and docket entries specific to other cases will be entered on those cases’ dockets.

Master and Short-Form Individual Complaint Meet and Confer

Individual liaison counsel and counsel for all defendants are directed to meet and confer regarding the timing issues relating to the master and short-form individual complaints. The parties are ordered to submit a proposed order to the Court resolving those issues by **January 19, 2018**, as discussed on the record.

Individual liaison counsel is also directed to discuss with other individual plaintiffs' counsel how the short-form complaint will accommodate multiple-plaintiff cases in which different plaintiffs assert different claims.

Consolidation of Mays and Boler

The Court will not consolidate the *Mays* and *Boler* class actions with the consolidated class action at this juncture, and will revisit the issue at a later date.

Motions to Quash Subpoenas

The Court hereby DENIES the LAN defendants' motion to quash consolidated class plaintiffs' first requests for production of documents (Case No. 16-cv-10444, Dkt. 204) for the reasons set forth on the record. The engineering defendants are ordered to produce documents responsive to this set of requests by **February 12, 2018**.

The City of Flint is ordered to submit a brief by **January 22, 2018** regarding their objection to complying with consolidated class plaintiffs' first requests for production of documents under M.C.L. § 767A.8. Consolidated class plaintiffs are ordered to respond by **February 5, 2018**. These briefs will be submitted on Case No. 16-cv-10444.

The individual MDEQ defendants are ordered to inform consolidated class plaintiffs and the Court by **January 26, 2018** whether they independently and individually produced any documents responsive to the first requests for production that were not already produced by MDEQ or the State of Michigan. These defendants are not required to identify the documents; they are required only to inform consolidated class plaintiffs as to the fact of whether any such documents exist.

If any or all of the defendants did not produce any such documents, they or their counsel must certify that fact.

Motion to Strike Allegations in the Consolidated Class Complaint

The Court hereby GRANTS Stephen Busch and Liane Shekter-Smith's motion to strike allegations from the amended consolidated class action complaint (Case No. 16-cv-10444, Dkt. 253), and orders interim co-lead class counsel to meet and confer with counsel for these two defendants, as well as counsel for Howard Croft and Darnell Earley, to discuss amendment of the consolidated class action complaint to properly reflect the status of any criminal charges pending (or not pending) against these defendants. The amended complaint is to be

filed by **January 25, 2018**. If the parties cannot agree on the amended language, they are directed to file their competing proposed language by **January 25, 2018**.

Draft Evidence Preservation Order

Following discussion at the status conference, the Court hereby orders that: 1) the Veolia defendants' motion for clarification (Case No. 16-cv-10444, Dkt. 309) is GRANTED, and the Court rejects plaintiffs' proposed language regarding the extension of the parties' respective document preservation obligations; and 2) the Court accepts footnotes 2 and 3 in the draft order, with the following revisions (in italics):

Footnote 2 will read: "This example imposes no obligation on Flint residents or Parties to the case to retrieve water samples sent out for testing and not *in Flint residents' or Parties' possession, custody, or control.*"

Footnote 3 will read: "This example imposes no obligation on Flint residents or Parties to the case to retrieve samples sent out for testing and not *in Flint residents' or Parties' possession, custody, or control.*"

The parties in the consolidated class action are directed to submit a revised version of the proposed evidence preservation order in

accordance with this order and the prior order regarding the notice (Case No. 16-cv-10444, Dkt. 308), with the exception of item 1 in the prior order. The proposed order should be submitted via the utilities function on CM/ECF by **January 19, 2018**.

Scheduling of Next Status Conference

The next status conference in these cases will be held on **February 20, 2018 at 11:00 A.M.** in Courtroom 1 in the Ann Arbor courthouse. Parties are to file proposed agenda items in Case No. 16-cv-10444 by **February 6, 2018**. Individual liaison counsel Corey Stern should collect proposed agenda items from all counsel representing individual plaintiffs, and submit those proposed items as a single filing. The Court will issue an agenda by **February 13, 2018**.

IT IS SO ORDERED.

Dated: January 12, 2018
Ann Arbor, Michigan

s/Judith E. Levy
JUDITH E. LEVY
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on January 12, 2018.

s/Shawna Burns
SHAWNA BURNS
Case Manager