

**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 CASES

_____ /

**ORDER REGARDING MATTERS DISCUSSED AT THE
NOVEMBER 7, 2018 STATUS CONFERENCE**

The Court held a status conference regarding its pending Flint water litigation on November 7, 2018. The Court now orders as follows:

Comprehensive Case Management Plan

The parties agreed to develop a proposed case management plan. It is ordered that lead counsel for class and individual plaintiffs and defendants' executive committee meet and collaborate on a tentative plan by **November 28, 2018**. The parties will then communicate a single, proposal to the Court by **December 14, 2018**, after which the Court will hear objections to the proposal, if any, on **January 16, 2019 at 2:00 p.m.** The plan must address, in part, whether state held information relating

to the blood lead levels of Flint Residents can be shared legally with the parties.

Status of *Mays v. Snyder* ELCRA Claims

The status of the Elliot Larson Civil Rights Act claims in *Mays v. Snyder* (originally case no. 17-cv-10996) is unclear. At present time, neither state nor federal court clearly has jurisdiction to hear them. To resolve this uncertainty, this Court will hold a joint motion hearing with Genesee County Circuit Court Judge Richard B. Yuille, scheduled on **January 16, 2019 at 2:00 p.m.** Plaintiffs are ordered to file a brief by **November 14, 2018** to accompany their pending motion to remand. (Dkt. 662). Subsequent response and replies briefs shall be filed in accordance with the Local Rules for non-dispositive motions.

Discovery Coordination Protocol Order

On August 17, 2018, the Court entered a discovery coordination protocol order. (Dkt. 566.) The order was designed to “effectuate efficiency and limit duplication in the discovery processes associated with litigation arising out of” the Flint Water Crisis. (*Id.* at 1.) It was further intended that other state and federal courts handling cases associated with the Flint Water Crisis would enter a complementary order. If that did not

happen, the Court's order would be void and the parties would meet to discuss how it should be modified to achieve productive coordination in fewer than all the cases. (*Id.* at 2 –3.)

To date, a complimentary order has not been entered by all courts. But the parties agreed that the coordination should remain in place. For this reason, interim individual co-liaison counsel is to draft appropriate amendments so that the order is no longer void, and to resubmit it for the Court's approval.

Special Master Census Order

Objections were heard to the Special Master's census order. The Court rejected these concerns, but agreed to amend the order to clarify its scope. The Court will therefore enter an amended order. The order will confirm that any data collected pursuant to it will be used solely to assist the mediators for the purposes of settlement. The data will be provided to the Special Master who will reconcile it to identify duplicative claims before providing information to the mediators. Additionally, no personally identifiable information will be provided from the Special Master to either the mediators or another party, or from the mediators to another party, without the parties receiving an opportunity to object.

The sole exception will be that the Special Master may discuss duplicative claims with plaintiffs' counsel. The revised order will instruct plaintiffs to produce the required data by **December 5, 2018**.

Non-Party, Document Only Subpoenas

Having heard that third-parties are not responding to subpoenas, counsel are instructed to encourage these nonresponsive parties to take part in telephonic conferences with the Court so that any problems can be amicably resolved. Counsel should be mindful that the Court has no authority to compel third-parties to appear for telephonic conferences. As such, if third-parties refuse to take part and refuse to produce, counsel should file an appropriate in accordance with Federal Rule of Civil Procedure 45.

Motion for Leave to Amend in *Walters*

Plaintiffs in *Walters v. City of Flint*, 17-cv-10164, indicated their intention to file a motion for leave to file an amended master long-form complaint. The Court instructs them to do so, if at all, by **November 28, 2018**.

Scheduling of Next Status Conference

The next status conference will be held on **February 6, 2019** at 2:00pm in Ann Arbor, Michigan. Parties are to file proposed agenda items in Case No. 16-cv-10444 by **January 23, 2019**. Individual liaison counsel 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 **January 30, 2019**.

IT IS SO ORDERED.

Dated: November 9, 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 November 9, 2018.

s/Shawna Burns
SHAWNA BURNS
Case Manager