

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

In re Flint Water Cases.

Judith E. Levy
United States District Judge

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This Order Relates To:

ALL CASES

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AGENDA FOR JUNE 18, 2018 STATUS CONFERENCE

The Court will hold a status conference in these cases on June 18, 2018 at 2:00 P.M. in Ann Arbor, Michigan. The agenda will be as follows, although the Court may adjust the agenda prior to the conference, if necessary:

A. Administrative Issues

Cross-Motions to Replace Individual Co-Liaison Counsel Hunter Shkolnik and Interim Co-Lead Class Counsel

The Court will hold oral argument on the cross motions to replace counsel. (Case No. 16-cv-10444, Dkts. 404, 444.)

Time and Expense Order

The Court will discuss the previously submitted proposed time and expense order.

Issues With Short-Form Complaint Filings

The parties' proposed agenda items identify issues in numerous cases involving individual short-form complaints. The Court will address those cases identified in the submissions, including:

- *Alexander v. Lockwood, Andrews and Newnam, P.C.*, Case No. 16-cv-13421 (deficiencies in pleading)
- *Brown v. Lockwood, Andrews & Newnam, P.C.*, Case No. 18-cv-10726 (new causes of action/improper case caption)
- *Rogers v. Lockwood, Andrews & Newnam, P.C.*, Case No. 18-cv-10713 (new causes of action/improper case caption)
- *Marble v. Snyder*, Case No. 17-cv-12942 (expired summonses)
- *Chapman v. Snyder*, Case No. 18-cv-10679 (expired summonses)

Logistics for July 11, 2018 Motion to Dismiss Hearing in Carthan

The Court will hear oral argument on the motions to dismiss in *Carthan v. Snyder* (Case No. 16-cv-10444, Dkts. 273-274, 276-279, 281-

283, 294) on July 11, 2018. The Court will hear oral argument on the Veolia defendants' motion to strike the proposed classes at a later date after the motions to dismiss are decided.

The oral argument will focus primarily on plaintiffs' equal protection, § 1985(3), ELCRA, fraud, and negligent infliction of emotional distress claims, with argument on the remaining claims to follow in the order they are presented in the complaint.

The structure of the argument will be as follows, subject to change as the Court determines:

- 1) Equal Protection – Race and Wealth
- 2) 42 U.S.C. § 1985(3) – Invidious Racial Animus
- 3) ELCRA – Violation of Public Service Provisions
- 4) Fraud
- 5) Negligent Infliction of Emotional Distress
- 6) Substantive Due Process – State Created Danger
- 7) Substantive Due Process – Bodily Integrity
- 8) *Monell* Claim
- 9) Professional Negligence/Negligence/Gross Negligence

Each of these claims will be argued in full before argument proceeds to the next claim. The defendants named in each claim will argue first, followed by plaintiffs. The defendants may determine their own order of argument with regard to each claim. The Court will not set time limits on oral argument, but may limit counsel as necessary.

Dismissal of Claims and Parties in Cases

In light of Sixth Circuit precedent stating that Fed. R. Civ. P. 41 does not permit voluntary dismissal of fewer than all claims and parties in a given action, *Philip Carey Mfg. Co. v. Taylor*, 286 F.2d 782, 785 (6th Cir. 1961), the issue of how a plaintiff may dismiss a claim or party without dismissing the entire action has arisen. Parties may dismiss parties and claims either by amending their complaint in compliance with Fed. R. Civ. P. 15 and E.D. Mich. Local R. 15.1, or by stipulating to dismissal of claims or parties with the relevant parties in the given case without invoking Rule 41.

Oral Arguments in Walters, Sirls, and Marble

The Court will hold oral argument on the motions to dismiss in *Walters* and *Sirls* on **September 26, 2018 at 10 A.M.**

The Court will hold oral argument on the motions to dismiss in *Marble* on **October 30, 2018 at 10 A.M.**

Motion to Amend in Carthan

The Court will hold oral argument on the motion to amend the complaint in *Carthan* (Case No. 16-cv-10444, Dkt. 485) at the September 12, 2018 status conference.

B. Discovery Issues

Coordination of Discovery in State and Federal Court

The Court will discuss coordination of discovery between the pending state and federal litigation.

Future Documents-Only Non-Party Subpoenas

The Court will discuss the procedure for future documents-only subpoenas.

Pending Preliminary Discovery Issues

The Court will discuss other pending preliminary discovery issues, including authorizations to release information about parties to these cases in the possession of non-parties, the sharing of information gathered from FOIA requests, and other issues the parties may identify at the status conference.

Census Order

The Court will discuss the proposed census order referenced by individual co-liaison counsel.

C. Scheduling of Next Status Conference

The next status conference will be held on **September 12, 2018 at 2:00 P.M.** in Ann Arbor, Michigan. Parties are to file proposed agenda items in Case No. 16-cv-10444 by **August 29, 2018**. 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 **September 5, 2018**.

Dated: June 8, 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 June 8, 2018.

s/Shawna Burns
SHAWNA BURNS
Case Manager