

**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

\_\_\_\_\_ /

**AGENDA FOR FEBRUARY 6, 2019 STATUS CONFERENCE**

The Court will hold a status conference in these cases on February 6, 2019 at 2:00pm in Ann Arbor, Michigan. The agenda will be as follows, although the Court may adjust the agenda prior to the conference, if necessary:

**1. *Guertin v. State of Michigan*, Case No. 16-cv-12412**

The Sixth Circuit issued its mandate in *Guertin* on January 28, 2019, returning jurisdiction to this Court. There is a motion to file an amended complaint seeking leave to proceed as a class action. (Case No. 16-cv-12412, Dkt. 161.) Counsel should be prepared to inform the Court whether, in light of the passage of time, they still wish to proceed with that motion and, if so, how the proposed amended complaint differs from

the proposed fourth amended class action complaint currently under consideration in *Carthan*.

## **2. Case Management Order**

On November 9, 2018, the Court ordered the parties to file a joint case management plan. (Case No. 16-cv-10444, Dkt. 669.) In response, the parties submitted a proposal. (Dkt. 719.) However, the parties could not agree to a single version of the plan, so it came complete with various comments and objections. Having now had a chance to review it, the Court intends to hold an in-chambers work session to resolve the differences. At the status conference, the Court will schedule this session and discuss pending motions to stay discovery. (Dkts. 685, 693.)

## **3. Subject Matter Jurisdiction in Carthan**

The Court undoubtedly has subject matter jurisdiction to entertain the entirety of *Carthan*. The Court is aware that several defendants are challenging its general jurisdiction to rule on the pending motion for leave to amend and motions to dismiss the case. The Court has jurisdiction and will proceed as efficiently as possible to adjudicate the pending motions.

Briefing in the joint motion for leave to amend / motions to dismiss will be completed by the end of today, January 29, 2019. (Case No. 16-cv-10444, Dkt. 727.) Oral argument will not be held. The Court expects to issue a decision by the end of February. The Court notes the city defendants' request that the Court incorporate its prior order denying the city defendants' motion to certify for appeal the issue of *Monell* liability. (Dkt. 751 at 3.)

#### **4. Motions to Strike and for Sanctions**

On January 15, 2019, counsel for the state defendants filed a Rule 11 motion for sanctions against plaintiffs in *Walters v. Flint*. (Case No. 17-cv-10164, Dkt. 195.) A week later, Jeff Wright filed a motion to strike allegations from the as yet unadopted proposed fourth amended class action complaint. (Case No. 16-cv-10444, Dkt 737.) The Court will address both motions.

#### **5. Motion for Leave to Amend in Waters / Siris**

On November 28, 2018, plaintiffs filed a motion for leave to amend the complaint in *Walters*. (Case No. 17-cv-10164, Dkt. 185.) The proposed amended complaint does not include defendant Edward Kurtz in the case caption. However, it still names him in various counts. Plaintiffs should

be prepared to state on the record whether Kurtz is a named defendant in the proposed amended complaint.

#### **6. Report from the Special Master**

The Special Master will give an update on the census order data collected thus far.

#### **7. Update on Non-Party Subpoenas**

Counsel should be prepared to provide an update on the status of the non-party subpoenas, aside from the Genesee County Health Department subpoena.

#### **8. Motion Practice in Non Lead Cases**

To clarify, motion practice in cases other than *Carthan*, *Walters*, *Sirls*, and *Marble* is stayed until further notice.

#### **9. Scheduling of Next Status Conference**

The next status conference will be held on May 15, 2019 at 2:00pm in Ann Arbor, Michigan. Parties are to file proposed agenda items in case no. 16-cv-10444 by May 1, 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 May 8, 2019.

Dated: January 29, 2019  
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 29, 2019.

s/Shawna Burns  
SHAWNA BURNS  
Case Manager