

**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

\_\_\_\_\_ /

**AGENDA FOR MAY 15, 2019 STATUS CONFERENCE**

The Court will hold a status conference in these cases on May 15, 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:

**I. Outstanding Motions in *Carthan***

On April 1, 2019, the Court granted in part and denied in part defendants' motions to dismiss in the putative class action *Carthan v. Snyder*, 16-cv-10444. (Dkt. 798.) The Court will issue written decisions to address plaintiffs' motion for reconsideration (Dkt. 809) and Veolia's motion to correct. (Dkt. 813.) No oral argument will be permitted.

There remains several other motions pending on the *Carthan* docket. The Court will issue oral decisions during the status conference, ruling on the *Guertin* plaintiffs' motion to appoint counsel (Dkt. 786) and Veolia's motion to strike the proposed classes. (Dkt. 275.) No oral argument will be permitted.

## **II. Update on *Walters*, *Sirls*, and *Marble***

On May 3, 2019, plaintiffs in *Walters v. Flint*, 17-cv-10164, filed a notice outlining the factual differences between the proposed amended master complaint in the individual cases and the adopted fourth amended complaint in *Carthan*. (Case No. 16-cv-10444; Dkt. 839.) Taking this information into consideration, the Court is preparing to rule on plaintiffs' motion to amend the master complaint in *Walters* (Case No. 17-cv-10164; Dkt. 185) and defendants' motions to dismiss in *Walters* and *Sirls v. Michigan*, 17-cv-10342.

There are also unresolved motions to dismiss in *Marble v. Snyder*, 17-cv-12942. On October 17, 2018, the Court adjourned a hearing on these motions pending the Court's decision on the motions to dismiss in *Walters* and *Sirls*. (Dkt. 128.) Parties to *Marble* shall come prepared to discuss how best to proceed once decisions in *Walters* and *Sirls* have been

issued. Parties will be permitted to discuss the management of non-lead (legionella) cases more generally.

### **III. Case Management Plan**

The Court entered a Case Management Order (“CMO”) on April 30, 2019. (Dkt. 827.) Several days later, defendants McLaren Health Corporation and Hurley Medical Center filed supplemental briefs requesting exemption from the CMO. (Dkts. 837, 838.) The parties should be prepared to address this issue.

After entering the CMO, the Court denied the city defendants’ motion to strike allegations from the fourth amended complaint in *Carthan*. (Dkt. 828.) The Court also extended the city defendants’ time to answer the fourth amended complaint. (*Id.*) In light of this extension, the Court will discuss the timing and manner of discovery as it relates to the city defendants.

### **IV. Plaintiff Fact Sheets**

On December 20, 2017, the Court approved use of a plaintiff fact sheet. (Dkt. 301.) The fact sheet was proposed by the parties. (*Id.*) Co-liaison plaintiffs in the individual actions have requested time to discuss implementation of the fact sheet. (Dkt. 836 at 2.) The Court grants them that time. Other parties will be given an opportunity to respond.

## **V. Non-Party Documents Only Subpoenas**

On April 22, 2019, the parties submitted a joint report with respect to the use of non-party documents-only subpoenas. (Dkt. 812.) The purpose of the report was to identify ways to make the non-party documents-only subpoenas process more efficient. (*Id.*) The parties should come prepared to discuss the report.

## **VI. Plaintiff Authorizations**

Last month, several defendants submitted a joint brief concerning the scope of plaintiffs' authorizations for release of records. (Dkt. 800.) Defendants seek "comprehensive medical records, including those pertaining to potential alternative causes for [p]laintiffs' alleged physical or emotional [injuries]." (*Id.* at 2.) Plaintiffs have filed a response in opposition to defendants' request. (Dkt. 820.) The Court will hear from the parties on their respective positions.

## **VII. Coordination of Cases Involving the EPA**

On April 19, 2019, the Honorable Linda V. Parker of the Eastern District of Michigan issued an opinion and order in *Burgess v. United States*, 17-cv-11218, denying a motion to dismiss and ruling that a case against the Environmental Protection Agency ("EPA") could proceed. *Burgess* and several other similar cases before Judge Parker arose from

the same set of facts as the Flint Water Cases. The Court will discuss coordinated case management.

### **VIII. Other Discovery Coordination**

The parties should come prepared to update the Court with respect to how discovery is proceeding in other state and federal actions related to the Flint Water Cases. This includes the status of any cases filed in the Western District of Michigan. Class plaintiffs shall also update the Court on their discussions with the state defendants regarding the production of materials identified in the ongoing criminal litigation relating to the Flint Water Crisis. (Dkt. 834 at 1.)

### **IX. Update from the Special Master**

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

The next status conference will be held on June 19, 2019 at 2:00pm in Ann Arbor, Michigan. Parties are to file proposed agenda items in case no. 16-cv-10444 by June 5, 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 June 12, 2019.

Dated: May 8, 2019  
Ann Arbor, Michigan

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