

**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 MAY 20, 2020 STATUS CONFERENCE**

The Court will hold a video status conference in these cases on Wednesday, May 20, 2020, at 2:00pm ET in Ann Arbor, Michigan. This conference will be held on Zoom as a Webinar. If you plan to speak on the record, send an email to the Court's law clerk ([Abigail\\_DeHart@mied.uscourts.gov](mailto:Abigail_DeHart@mied.uscourts.gov)) by 5:00pm on Tuesday, May, 19, 2020.

Use this URL to join:

<https://zoom.us/j/93297952631?pwd=UGRCaVR0VU13cHBFaDZyUjlvDdQdz09>.

Anyone can access and listen to the conference through Zoom, but only those who have indicated they will speak on the record will be

admitted as a Zoom Webinar panelist. The agenda will be as follows, although the Court may adjust the agenda prior to the conference if necessary:

**I. *In re* Flint Water Cases Discovery Coordination**

The parties should be prepared to update the Court on how discovery is proceeding in other state and federal actions related to the Flint Water Cases. Judge Joseph J. Farah from Genesee County Circuit Court will attend the status conference to assist in this process.

The parties will report to the Court on their discussion of the reallocation of deposition timing with the addition of the United States as a Defendant in the Flint Water Cases. The VNA Defendants request also to discuss the status of and deadlines for home inspections and IMEs for bellwether plaintiffs in light of delays caused by COVID-19.

The following dates are set for telephonic discovery conferences as needed: June 3, 2020 at 2:00pm and June 17, 2020 at 2:00pm.

**II. Investigative Subpoena**

Plaintiffs filed a motion to compel the release of investigative subpoena transcripts and related documents produced in connection with the State of Michigan's Flint Water investigation. (ECF No. 1116.)

Responses to the motion will be submitted before the conference, and the Court will hear oral argument.

### III. Individual *Legionella* Cases

At the May 6, 2020 Discovery Conference, the Court assigned a committee to draft a proposal for how to proceed with *legionella* discovery in state and federal cases. The parties will submit this proposal for the Court's review by **5:00pm on Tuesday, May 19, 2020**.

In the Court's order following the April 15, 2020 Status Conference, it set forth a briefing schedule for any remaining *legionella* cases following its ruling in *Marble v. Snyder*, 17-cv-12942 and *Brown v. Snyder*, 18-cv-10726. (ECF No. 1104.) Several Defendants seek clarification on how to respond to these cases.

After the April Conference, the Court stated “[t]o the extent that Defendants file a motion to dismiss, they should limit their briefing to any claims or arguments not fully addressed by the Court in *Marble* and *Brown*.” (*Id.* at PageID.27497.) Defendants should also limit their briefing to any claims or arguments not fully addressed by the Court in *Walters v. Flint*, 17-cv-10164, and *Sirls v. Michigan*, 17-cv-10342. Defendants should respond to these cases as if the operative Short Form

Complaint has been incorporated. *See Walters*, 17-cv-10164 (ECF No. 185-2.) If there are any remaining issues or questions, these will be addressed at the conference.

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

The Special Master will provide an update on her work since the last status conference.

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

The next status conference will be held on **Wednesday, June 24, 2020** at 2:00pm on Zoom. Parties are to file proposed agenda items in Case No. 16-cv-10444 by June 10, 2020. 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 17, 2020.

#### **VI. Virtual Court Proceedings**

The following is a reminder of your responsibilities and Judge Levy's policy concerning virtual court proceedings.

##### Technical Responsibilities:

- The Court will not provide technical assistance for testing or troubleshooting. Additionally, the Court will not provide time during the proceeding to troubleshoot issues.
- Participants should take time prior to the call to become familiar with Zoom. Make sure your device is working properly.

- Directions, tutorials, and technical support to test your device and network prior to the proceeding can be found at Zoom.us.
- Participants should use a good LAN, WiFi, or substantial LTE connection to ensure a quality call. (Note: mobile data users may incur cellular carrier charges which are the responsibility of the participant.)

Judge Levy's Policy:

- If the hearing is an in-court proceeding, it will be considered the same as the courtroom. If the hearing is on the record, then a court reporter will be present. This hearing will *not* be on the record.
- No audio or other recordings of the proceeding are permitted.
- Appropriate conduct is always required. Please be courteous and patient.
- Please take care to mute your sound when you are not speaking so as to eliminate background noise for the court reporter and participants.

Best practices for video proceedings:

- Use your full name in the display portion of the video window, if applicable. This helps the reporter to identify who is speaking.
- Mute when not speaking to eliminate background noise (*e.g.*, dog barking, kids playing, sirens, etc). This will help prevent interruptions and improve the quality of the audio for the Court Reporter.
- Unmute only when necessary to speak. For Zoom, use the space bar to temporarily unmute when saying something brief.
- Avoid rustling papers and other extraneous sounds, such as audible email notifications while unmuted.
- Speak one at a time. Just like in the courtroom, interrupting can render both speakers unintelligible.
- When speaking, try to look directly at the camera, not at the screen.
- Position the camera at eye level or slightly above eye level.

- Be mindful of what is behind you. A solid neutral wall is ideal.
- Have proper lighting. Avoid having light behind you, such as a window, or directly overhead. Ideally, position a lamp, or sit facing a window, where light is directly on your face.

Dated: May 13, 2020  
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 May 13, 2020.

s/William Barkholz  
WILLIAM BARKHOLZ  
Case Manager