

**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 JUNE 19, 2019 STATUS CONFERENCE**

The Court will hold a status conference in these cases on June 19, 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. Individual City Defendants Motion to Stay Proceedings**

On May 10, 2019, defendants Ambrose, Croft, and Earley filed a motion to stay the proceedings against them. (Case No. 16-cv-10444, Dkt. 847.) Defendants Johnson and Glasgow joined the motion (Dkt. 851), and plaintiffs and Veolia each filed a response. (Dkts. 864, 869.) The Court will hear argument on the motion.

## **II. Motion to Strike the Proposed Classes**

During the May 15, 2019 status conference, Veolia voluntarily agreed to withdraw their motion to strike the proposed classes in *Carthan v. Snyder*. (Case No. 16-cv-10444, Dkt. 860 at 1–2.) Veolia has yet to do so, and shall update the Court as to why.

## **III. *Guertin v. Michigan***

The Sixth Circuit Court of Appeals has denied the MDEQ defendants a stay in *Guertin* while they seek further review from the United States Supreme Court (Case No. 16-cv-12412, Dkt. 254), and the Court has received the *Guertin* mandate. The MDEQ defendants now indicate that they intend to petition the Supreme Court for a stay. (Case No. 16-cv-10444, Dkt. 872 at 1 n.1.) The MDEQ defendants shall update the Court on the status of this petition, and the timeframe in which they expect to file an answer. Once the motions for leave to amend and dismiss in *Walters v. Flint*, 17-cv-10164, and *Sirls v. Michigan*, 17-cv-10342, have been decided, the Court will set a schedule for the *Guertin* plaintiffs to either adopt the short-form complaint format or to file a motion to be consolidated with *Carthan*.

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

On April 18, 2019, Judge Parker issued an opinion and order in *Burgess v. United States* denying the United States' motion to dismiss. (Case No. 17-cv-11218; Dkt. 76.) On June 7, 2019, the United States filed a motion to certify Judge Parker's decision for interlocutory appeal. (Dkt. 78.)

#### **V. Revised Class Definitions**

After the May 15, 2019 status conference, the Court ordered interim class counsel to seek concurrence from defendants regarding the timeline for filing revised class definitions in *Carthan*. (Case No. 16-cv-10444, Dkt. 860 at 1–2.) As of this date, no agreement has been reached and the Court will set a schedule for this process after the status conferences.

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

Co-liaison counsel for the individual plaintiffs and counsel for Veolia were ordered to submit a proposed order finalizing the revised non-party documents only subpoena process by May 22, 2019. (Dkt. 860 at 4.) Several tentative processes have been suggested since then, but a final process has yet to be agreed upon. Oral argument will be heard and a decision will be made on the record.

## **VII. First Bellwether Pool Selection**

In accordance with the Case Management Order, selection of claimants to fill the first bellwether trial pool is underway. (Dkt. 827 at 22–23.) Co-liaison counsel and counsel for the defendants shall come prepared to update the Court on their progress.

## **VIII. Plaintiff Authorizations in *Carthan***

After the May 15, 2019 status conference, the Court ordered interim class counsel to clarify whether each named plaintiff in *Carthan* was alleging an injury of ordinary emotional harm or a specific mental health condition. (Case No. 16-cv-10444, Dkt. 860 at 4–5.) This was so the Court could rule on the extent to which each named plaintiff would be required to release their mental health records for the purposes of discovery. (*Id.*) Instead of directly responding to the Court’s order, plaintiffs agreed to provide signed authorizations to defendants granting them access to plaintiffs’ mental health records. (Dkt. 866.) Plaintiffs agreed to do this by June 12, 2019. (*Id.*) Defendants and class plaintiffs shall update the Court on the status of these authorizations, and further clarification on this issue will be provided.

**IX. Status of *Walters*, *Sirls*, and *Marble***

The Court will issue a decision 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*, as soon as possible. Briefing in *Marble v. Snyder*, 17-cv-12942, and *Brown v. Snyder*, 18-cv-10726, shall proceed in accordance with the Court's May 17, 2019 order. (Dkt. 860 at 2.)

**X. Status of Written Discovery Requests**

The parties shall update the Court on the status of outstanding written discovery requests, including Freedom of Information Act requests.

**XI. Status of the Amended Case Management Order**

The Court will issue an amended CMO following the status conference. In the meantime, the amendment permitting defendants who have or will answer after April 30, 2019, to individually serve ten interrogatories on each named *Carthan* plaintiff is already in effect. (Case No. 16-cv-10444, Dkt. 860 at 3.)

**XII. 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.

**XIII. Scheduling of Next Status Conference**

The next status conference will be held on July 31, 2019 at 2:00pm in Ann Arbor, Michigan. Parties are to file proposed agenda items in Case No. 16-cv-10444 by July 17, 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 July 24, 2019.

Dated: June 11, 2019  
Ann Arbor, Michigan

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