

**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 NOVEMBER 7, 2018 STATUS CONFERENCE

The Court will hold a status conference in these cases on November 7, 2018 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:

A. Administrative Issues

Comprehensive Case Management Plan

Some parties have suggested that the Court adopt a phased comprehensive case management plan. Such a plan could be useful to ensure that litigation proceeds efficiently. The Court will hear from counsel on whether to adopt such a plan and, if so, how best to develop it.

Carthan Motion to Amend Consolidated Class Complaint

On October 5, 2018, class plaintiffs filed a motion for leave to amend the consolidated class complaint in *Carthan*. (Dkt. 620.) In lieu of hearing argument on the merits, the Court will hear argument on whether it has jurisdiction to adjudicate the motion while interlocutory appeals are pending in the Sixth Circuit from the Court's August 1, 2018 opinion and order (Dkt. 546.) The Court of Appeals has notified the parties to the appeal that pursuant to Federal Rule of Appellate Procedure 4(a)(4), it will not proceed with the appeal until the pending motions for reconsideration are resolved.

Motions to Stay and for Reconsideration in Carthan

Depending on whether the Court has jurisdiction to adjudicate the motion to amend the consolidated class complaint, the Court will address its evolving approach to the pending motions to stay and for reconsideration in *Carthan*.

Clarification on Bacon Motion to Amend and the Procedure for Resolving Other Causes of Action in Non-Lead Cases

The Court will clarify the status of the non-lead cases, including the procedure by which other causes of action will be addressed. Briefing in all non-lead cases is deferred until the motions to dismiss in *Walters* and *Sirls* are resolved.

Issues with the Complaints in Alexander, Brown, and Rogers

In its order regarding matters discussed at the June 18, 2018 status conference, the Court instructed counsel in *Alexander*, 16-cv-13421, *Brown*, 18-cv-10726, and *Rogers*, 18-cv-10713, to file amended complaints in accordance with the guidelines discussed on the record at that status conference. (Dkt. 506 at 3.) To date, this has not happened. Plaintiffs' counsel should be prepared to explain why these cases should not be dismissed for failure to prosecute.

Status of Mays v. Snyder ELCRA Claims

The Court will hear discussion on the status of the *Mays* plaintiffs' Elliott Larson Civil Rights Act claims. (Originally case no. 17-cv-10996; consolidated as 16-cv-10444.)

Non-Party, Document Only Subpoenas

In addition to any procedural issues with respect to the enforcement of non-party, document only subpoenas, the Court will hear reports by counsel on the status of any responses.

Other Issues

The Court will hear from counsel relating to the apportionment of defense costs and over concerns that certain plaintiffs may have filed duplicative lawsuits in state and federal court.

B. Discovery Issues

Discovery Coordination Protocol Order

On August 17, 2018, the Court entered a Discovery Coordination Protocol Order. (Dkt. 566.) Its purpose was to limit duplication in the discovery processes, in part by coordinating discovery between the various Flint water lawsuits pending in state and federal court. Several parties have voiced concern that the order is not yet working as intended. Some parties have also raised the fact that complementary orders have not been entered in other courts as explicitly required by the order. As a result, the Court will hear discussion on the status of the Discovery Coordination Protocol Order.

Special Master Census Order

On September 24, 2018, the Special Master submitted an order regarding the collection of claim data. (Dkt. 614.) A couple of weeks later, class plaintiffs filed an objection to the order (Dkt. 621), and, on the same day, individual liaison counsel filed a motion to adopt it. (Dkt. 622.) Defendants have since filed responsive briefing. As such, the Court will hear argument on whether or not to adopt the Special Master's order.

C. Scheduling of Next Status Conference

The next status conference will be held on February 6, 2019 at 2:00pm in Ann Arbor, Michigan. Parties are to file proposed agenda items in case no. 16-cv-10444 by January 23, 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 January 30, 2019.

Dated: October 31, 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 October 31, 2018.

s/Shawna Burns
SHAWNA BURNS
Case Manager