

# The Flint Water Crisis Litigation Update

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SEPTEMBER 2018 LITIGATION UPDATE

## Dear Flint Citizens:

**Yesterday you received a misdirected email from us. This was a result of a technical glitch that has now been corrected. We are sorry for any inconvenience this may have caused.**

The last three months were important months for Flint Water litigation. Please find below a summary of recent victories and upcoming efforts.

### 1. Judge Allows Flint Water Proposed Class Action to Proceed in Federal Court

On Wednesday July 11th, Judge Judith Levy heard more than six hours of arguments regarding the defendants' motions to dismiss our proposed class action case. The defense attorneys argued the claims against their clients should be dismissed because, among other assertions, that the state officials are entitled to governmental immunity. Interim Co-Lead Class Counsel countered their arguments and further explained each defendant's role in the tragedy. We want to thank those of you who were able to come to the hearing to support the community and this case.

Judge Levy issued her Opinion and Order on Wednesday, August 1st. While she held that Defendants Governor Rick Snyder, Director Dan Wyant, Former Emergency Manager Ed

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Kurtz, Former Mayor Dayne Walling and DHHS Director Nancy Peeler should be dismissed from the federal case, it is important for you to understand that the heart of the case is very much intact, alive and well. Other claims including the race discrimination claims were dismissed. Those claims will be reasserted in in a motion to amend.

Interim Co-Lead Class Counsel has developed a multi-court approach to hold the State of Michigan, its employees, the Environmental Protection Administration (EPA) and the engineering corporations accountable for the massive harm inflicted on the community and the children and families of Flint. Three thousand Flint residents are suing the EPA in Federal Court and we expect that the EPA will be held accountable in the case pending before Federal Judge Linda Parker.

Likewise, the Michigan Court of Appeals has already issued a comprehensive opinion guaranteeing you a day in the State Court of Claims so that you can receive the compensation you deserve from the State, the Governor and two of the Emergency Managers. The State has appealed the favorable ruling from the Michigan Court of Appeals to the Michigan Supreme Court. We expect to hear from the Michigan Supreme Court as to whether it will accept the case sometime after the November 6, 2018 general election.

**We expect to prevail in the Michigan Supreme Court creating a meaningful opportunity for you and your family to secure fair and just compensation.**

Judge Levy's opinion can be found on our website: [flintwaterclassaction.com](http://flintwaterclassaction.com). You can read more about Judge Levy's recent opinion and the thoughts of your legal team here:

- **MLive** – “Judge Dismisses Gov. Snyder, State from Flint Water Class Action Lawsuit” - [https://www.mlive.com/news/flint/index.ssf/2018/08/federal\\_judge\\_dismisses\\_gov\\_s\\_n.ht\\_ml](https://www.mlive.com/news/flint/index.ssf/2018/08/federal_judge_dismisses_gov_s_n.ht_ml)
- **NPR** – “Flint Water Class Action Lawsuit Moves Forward, but Gov. Snyder Dropped as Defendant” - <https://bit.ly/2Mb55T2>
- **WLUC/NBC** – “Judge Allows Flint Water Case to Proceed” - <https://bit.ly/2O1TRAS>
- **Detroit News** – “Snyder Dismissed from Flint Contaminated Water Class Action Lawsuit” - <https://detne.ws/2AA6Wzu>

- **National Law Journal** – “Governor, State of Michigan, Tossed from Flint Water Class Action” - <https://bit.ly/2vadlH6>

On September 12, 2018, the attorneys representing the proposed class action met with Judge Levy. We will be filing a motion to amend the lawsuit.

The interim co-lead class counsel will be back in Court before Judge Levy on November 7, 2018 at 2:00 PM in Ann Arbor.

**The proposed class action is very much alive and well in Federal Court and State Court.**

## **2. Victory in the Court of Appeals!!**

We are excited to share a recent success in your case against the state. On May 2, 2018 your legal team presented our argument in the Michigan Court of Appeals regarding the right to a jury trial in the claims against the state for racial discrimination. Your legal team was successful in convincing the panel that these claims should be heard in Circuit Court with a jury trial instead of the Court of Claims.

## **3. Related Criminal Cases**

- **MDHHS: Nick Lyon and Eden Wells**

The preliminary examination hearings in the cases against Michigan Department of Health and Human Services Director Nick Lyon and Chief Medical Executive Eden Wells have concluded.

The prosecutor amended charges against Nick Lyon, adding a second involuntary manslaughter charge for the 2015 death of 83-year old John Snyder and the charge of willful neglect of duty in office. Judge Groggins heard the final arguments on July 25th and said that he will issue his decision on August 20, 2018.

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On August 20, 2018, Judge Groggins, issued his decision as promised. He determined that there was probable cause to believe that Mr. Lyons was responsible for the deaths of Mr. Skidmore and Mr. John Snyder. Mr. Lyon will face trial on manslaughter charges in the Genesee County Circuit Court.

The prosecutor, also, amended charges against Eden Wells, adding a second involuntary manslaughter charge for Snyder's death. Judge Crawford heard the final arguments on August 20, 2018 and we await his decision.

- **MDEQ: Stephen Busch, Liane Shekter-Smith, Michael Prysby, and Patrick Cook**

The joint examination against Michigan Department of Environmental Quality officials Stephen Busch, Liane Shekter-Smith, Michael Prysby, and Patrick Cook is still ongoing. Charges against them include failing to alert the public, misleading regulators, and manipulating a report on the levels of lead in Flint's water.

- **Nancy Peeler and Robert Scott**

The preliminary examination of Nancy Peeler and Robert Scott began June 27th. Nancy Peeler is the Director of the Program for Maternal, Infant, and Early Childhood Home visiting. Robert Scott is a data manager for the DHHS's Health Homes and Lead Prevention Program. They are both being charged in connection to a conspiracy involving two agency reports on blood lead levels in Flint. The hearings continue before Judge Jennifer Manley.

#### **4. The Class Action Process**

We would like to make sure you understand the class action process and what you can expect:

We refer to this case as a proposed class action but the Court has not yet had a chance to decide whether a class should be certified. If the court certifies this case as a class action, you will receive a Court-approved notice informing you of your rights and options.

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Currently, there is no immediate deadline for Flint citizens to sign retainer agreements with a lawyer. Your legal rights are protected if you fall within the proposed class which is defined as:

“All individuals who from April 25, 2014 to present were exposed to toxic Flint water and who experienced injury to their person or property or who in the future will be injured.”

However, if you have a friend or family member who is interested in learning more about this process or getting regular updates, they should call our hotline at (248) 658-0020. If there is a class settlement, class members will receive awards without having to file individual lawsuits. Most will not be required to hire a lawyer and fees paid to legal counsel will be addressed separately by the Court.

If you are interested in pursuing an individual case, you should review the facts of your specific situation with an attorney familiar with your case.

You will not be forced to accept a class action settlement. If a class action settlement is negotiated and approved, it will be supervised by the Court to ensure it is fair. However, if you felt that such a settlement is not right for you, you will be able to remove yourself by opting out and pursuing an individual case.

Attorney contracts are binding, however, if you have signed up with another attorney and are dissatisfied with your representation, call that attorney to discuss your concerns. Michigan law gives every lawyer a lien for their service, so unless you disengage your lawyer with care you may end up paying two lawyers. The important point is to discuss your concerns with your attorney.

## **5. Final Reminders**

If you have questions about this process or the litigation, you should feel to contact us by:

- Leaving a voicemail on our hotline at (248) 658-0020;
  - Filling out a questionnaire on our website: [www.flintwaterclassaction.com](http://www.flintwaterclassaction.com); or
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- Coming to our Flint office and speaking with a representative from our Legal Team.

The Flint office is located at the following address:

1176 Robert T. Longway Boulevard, Flint, MI 48503

Hours: Tuesdays and Thursdays, 9am-5pm

Remember to save any relevant documents such as blood lead level test results or water lead test results. A list of additional documents to save can be found [here](#).

All future updates will also be featured on our website: [www.flintwaterclassaction.com](http://www.flintwaterclassaction.com).

Additional information regarding our legal actions can be accessed at the noted website as well.

***Peace and Solidarity,***

***The Flint Water Crisis Litigation Team***

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This communication is intended for the clients of the Flint Water Crisis Legal Team. If you are not our client you should disregard this communication. If you are unsure, please contact us.

**Our mailing address is:  
1176 Robert T. Longway Blvd.,  
Flint, MI 48503**

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