



The Flint Water Class Action Legal Team

Pitt McGehee Palmer & Rivers, P.C.

Trachelle C. Young & Associates

Cynthia M. Lindsey & Associates

Law Offices of Deborah LaBelle

McKeen & Associates, P.C.

Law Offices of Teresa A. Bingman

Goodman & Hurwitz, P.C.

Weitz & Luxenberg, P.C.

(248) 658-0020

1176 Robert T. Longway Blvd., Flint, MI 48503

[www. flintwaterclassaction.com](http://www.flintwaterclassaction.com)

APRIL 4, 2017

We are pleased to report that on January 30, 2017, we filed a lawsuit against the United States Environmental Protection Agency (“EPA”) in Federal District Court in Detroit, Michigan. The title of the case is Jan Burgess, and all 1,703 individuals identified in the Burgess FTCA administrative Complaint FTCA v. United States of America, case number 17-10291. The case has been assigned to Judge Linda Parker. Judge Parker is a well-respected jurist and we are happy that she has been assigned to our case.

If you signed EPA Retainer Agreements with our legal team, you are a class member in this lawsuit. Below is a summary of the allegations set forth in the Complaint:

This action is a joinder action brought by all individuals identified administratively as Federal Tort Claims (“FTCA”) CLAIMANTS (“CLAIMANTS”) who experienced personal and property damage as a result of the negligence of the United States Environmental Protection Agency (“EPA”) in its mishandling of the Flint Water Crisis. This action for personal and property damages is brought against the United States of America (“USA”) under the FTCA, 28 U.S.C. § 2671 et seq.

The EPA failed to follow several specific agency mandates and directives governing its conduct which resulted in injury to the CLAIMANTS. Upon notice of a contaminant in the water system that presents a substantial and imminent danger, the EPA is required to first determine whether the state and local agency is taking timely action protective of public health. If timely and protective action is not being taken, the EPA is required to bring a Section 1431 emergency action. However, despite notice of the danger as early as October 2014, the EPA failed to take the mandatory steps to determine that Michigan and Flint authorities were not taking appropriate action to protect the public from toxic water and failed to file the emergency Section



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1431 action until January 2016. In addition, the EPA is required to provide advice and technical assistance to states and local providers which are not in compliance with the requirements of the Safe Water Drinking Act (“SWDA”) and if compliance is not achieved in thirty days, the EPA is required to issue an order or commence a civil action to obtain compliance. The EPA took none of those mandatory steps. The failure to fulfill these mandatory duties constitute violations of the FTCA.

An administrative claim for payment of personal and property damage in the amount of \$722.4 million has been pending before the EPA for more than 6 months. The EPA has neither accepted nor denied the administrative claim.

If you would like to view the lawsuit in its entirety here is a link to a news story with the complaint: <http://www.detroitnews.com/story/news/michigan/flint-water-crisis/2017/01/30/flint-water-crisis-lawsuit/97262914/>

As you are aware, the Flint Water Class Action Team has already filed the following (all of which are available on our website flintwaterclassaction.com):

1. A class action lawsuit in federal court against Governor Snyder, the State of Michigan and other governmental officials. This class action is pursued on behalf of tens of thousands of residents and other Flint water users – adults, children, business owners, home owners, workers, students, and all other victims of Defendants’ unconstitutional and unlawful conduct – who from April 25, 2014 to the present, have experienced and will continue to experience serious personal injury and property damage caused by Defendants deliberate misconduct. This case was filed in Federal District Court in Detroit, Michigan and assigned to **Judge John O’Meara, case number 15-14002**. Unfortunately, Judge O’Meara recently issued a decision dismissing the lawsuit claiming that our claims are pre-empted by the Safe Water Drinking Act. We strongly believe that his legal analysis is erroneous and we have filed an appeal to the federal 6th Circuit Court of Appeals and oral argument is scheduled for June 2017, although we do not know how long it will take to get an opinion from the court after that;



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2. A class action lawsuit filed in the State of Michigan Court of Claims against Governor Snyder, the State of Michigan, the Michigan Department of Environmental Quality, the Michigan Department of Health and Human Services, and Emergency Managers Darnell Earley and Jerry Ambrose. This class action lawsuit asserts that the Defendants violated the Michigan constitution and seeks to recover personal injury and property damage caused by Defendants' deliberately indifferent decision to expose the class members to the extreme toxicity of water pumped from the Flint River into their homes, schools, hospitals, businesses, correctional facilities, workplaces and public places and the fraudulent concealment of the severe public health crises these Defendants created as well as Defendants unconscionable refusal to mitigate the damage they caused. This case has been assigned to **Judge Mark Boonstra, case number 16-000017**. The Defendants filed a Motion to Dismiss, which was denied in part and granted in part. This decision is currently on appeal before the Michigan Court of Appeals. We are in the process of submitting briefs on appeal but do not have a hearing date as of yet
3. A class action lawsuit filed in the State of Michigan Genesee County Circuit Court against the City of Flint and other governmental officials asserting claims of gross negligence and seeking personal injury and property damages. **This case has been assigned to Judge Richard Yuille, case number 16-106112;**
4. A class action lawsuit filed against engineering companies, Lockwood, Andrews, and Newnam ("L.A.N.") and Veolia North America asserting claims against the Defendants based on Defendants' deliberate decision to participate in a conspiracy, the result of which was to violate rights secured to the class members by the United States Constitution, professional negligence and fraud claims and seeks personal injury and property damages. This case was filed in Federal District Court in Detroit, Michigan and assigned to **Judge John O'Meara, case number 16-11480**. We have decided to dismiss the case against the engineering firms in front of Judge O'Meara because we strongly suspect that he will also dismiss these claims for the same reason that he dismissed the claims against the governmental officials. However, we are going to refile the claims against the engineering firms in Genesee Circuit Court where we feel the venue is more likely to preserve our claims and help



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us get justice for you. Bottom line is that we are not abandoning the claims against the engineering firms who committed professional negligence in the advice that they gave to the City of Flint and the State of Michigan.

5. We have also joined another class action lawsuit that has been filed in federal court against governmental officials and the engineering companies and that case has been assigned to another judge, **Judge Judith Levy, case number 16-14498**. We highly respect Judge Levy as a jurist and are optimistic that she will give this case the attention that it deserves.
6. The EPA class action lawsuit set forth above.

While we are anxious to engage in discovery in these matters, which will include obtaining documents and taking sworn testimony (depositions), these cases have been procedurally delayed based on the Defendants' motions to dismiss the claims, arguing a variety of defenses, including the defense of governmental immunity. We are confident that we will prevail in these motions to dismiss, however, we are not permitted to engage in discovery until after they have been decided. The Defendants' have also delayed discovery in these matters by filing motions to change venue and appeals related to challenges to the jurisdiction in which these cases were filed. We view these motions as unmerited and are defending them vigorously, however, procedurally the actions by the Defendant are delaying our ability to engage in discovery. We look forward to representing you in these class actions.

To learn more about our class actions, we will be holding a **Community Mass Meeting on April 24, 2017 at the Greater Holy Temple of God in Christ** located at:

**6702 N. Dort Hwy
Flint, MI 48505
The meeting will begin at 6:00 p.m.**



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Alternatively, please visit the Flint Water Class Action Team office located in Flint at:

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The hours of the office are Tuesday and Thursday from 9:00 a.m. to 5:00 p.m. If you have questions or paperwork that you would like to provide to us, please visit the office during our office hours. Also visit our website at www.flintwaterclassaction.com for additional information regarding these legal actions.

NOTE: The deadline to submit EPA Authorizations and EPA Retainers is fast approaching. If you would like to join the class action against the EPA, you must sign and submit both of these documents. Both documents can be obtained by clicking the following links:

**[EPA Authorization Form](#)
[EPA Retainer](#)**

Documents can be submitted in person at our Flint office, via e-mail at flintwaterclassaction@pittlawpc.com or via fax at 248-398-9804. **If you are unsure if you have already submitted these documents, please call our hotline at 248-658-0020 or e-mail us at flintwaterclassaction@pittlawpc.com**

Peace and Solidarity,
Flint Action Class Action Litigation Team