



FLINT WATER CRISIS – SUMMARY OF CIVIL LITIGATION

Table

Civil Litigation Arising from the Flint water crisis

In late 2015 and early 2016, a public health crisis involving contaminated drinking water in Flint, Michigan, came to light. This horrible tragedy involves Flint residents' exposure to toxic levels of lead in their drinking water over a prolonged period of time as well as a spike in Legionellosis after the city changed its primary water source to the Flint River in April 2014. The change was made as a cost-cutting measure while Flint was under the control of an emergency manager. View [issue brief](#) to learn more about events leading up to the Flint water crisis and related legal issues.

Civil litigation is a powerful tool that may be used to redress public health harms and it is currently being wielded by many private Flint citizens, advocacy organizations, and city and state officials. Indeed, dozens of civil lawsuits (as well as criminal charges) have been filed in state and federal courts against government officials and agencies involved in events leading to the water crisis. This table summarizes legal theories underlying a number of civil lawsuits and other actions arising from the Flint water crisis. The table is not comprehensive but provides an overview of many key legal issues. In addition, please note this table reflects lawsuits as filed; amended pleadings and motions may have resulted in changes to parties and/or claims since the lawsuits were filed.

Summary of Civil Litigation

Case Name	Date Filed	Court	Plaintiffs / Attorneys	Defendants	Legal Theories
Federal Jurisdiction					
Mays et al. v. Snyder et al.	13-Nov-15	E.D. Mich.	Class action: Individual Flint residents who have experienced personal injury or property damage due to exposure to toxic water / <i>Goodman & Hurwitz (Detroit, MI); Pitt McGehee Palmer & Rivers (Royal Oak, MI); Trachelle C Young & Associates, PLLC (Flint, MI)</i>	Gov. Rick Snyder, in his official capacity, and the State of Michigan for prospective relief only; Daniel Wyant, Liane Shekter Smith, Adam Rosenthal, Stephen Busch, Patrick Cook, Michael Prysby, Bradley Wurfel, in their individual capacities; Darnell Earley, Gerald Ambrose, Dayne Walling, Howard Croft, Michael Glasgow and Daugherty Johnson, in their individual and official capacities; and City of Flint.	Plaintiffs assert that Defendants violated their 14th amendment right to substantive due process under two legal theories. Based on the state created danger doctrine, Plaintiffs assert that Defendants, acting under color of law, affirmatively caused and/or increased risk of injury to persons and property when they withdrew safe, clean water from Plaintiffs and replaced it with dangerous, toxic water. Plaintiffs' second theory is that Defendants violated their right to bodily integrity because Defendants had a duty to protect Plaintiffs from foreseeable risks associated with contaminated water and were deliberately indifferent to these risks.
Concerned Pastors for Social Action, Melissa Mays, American Civil Liberties Union, and National Resource Defense Council v. Khouri et al.	27-Jan-16	E.D. Mich.	National Resource Defense Council (NRDC) / NRDC Concerned Pastors for Social Action / NRDC Melissa Mays / NRDC; Law Office of Glenn M. Simmington, PLLC (Flint, MI) American Civil Liberties Union (ACLU) / ACLU	Nick A. Khouri, Frederick Headen, Michael A. Townsend, David McGhee, Michael A. Finney, Beverly Walker-Griffea, and Natasha Henderson, in their official capacities; and City of Flint.	Plaintiffs' claim for relief is based on multiple violations of the Safe Drinking Water Act (SDWA) and the Lead and Copper Rule (LCR). Violations include failure to operate and maintain optimal corrosion control treatment; failure to monitor tap water for lead using required sampling methods; failure to report on samples where required by the SDWA and LCR; and failure to notify customers of individual results of tap water samples collected and tested for lead. Plaintiffs ask the Court to enjoin Defendants from ongoing and future violations of the SDWA and LCR and to order Defendants to remedy violations, mitigate harm caused by violations, and promptly complete full replacement of all lead service lines in the water system, including those which are privately owned, at no cost to customers.
Boyer et al. v. Earley et al.	31-Jan-16	E.D. Mich.	Class action: Natural or corporate persons who paid for or were billed for Flint water between April 2014 and November 2015 / <i>Valdemar Washington (Flint, MI); Murphy, Falcon, and Murphy (Baltimore, MI)</i>	Darnell Earley, Gerald Ambrose, Dayne Walling, and Gov. Rick Snyder, in their individual and official capacities; City of Flint; State of Michigan; Michigan Department of Environmental Quality (MDEQ); Michigan Department of Health & Human Services (MDHHS).	Plaintiffs allege Constitutional violations and conspiracy to violate Constitutional rights, including: impairment of Plaintiffs' right to contract for potable water (Article I, § 10); violation of substantive and procedural due process rights protected by the 14 th amendment, insofar as Plaintiffs were deprived of ability to contract for potable water and forced to purchase unpotable water without due process; violation of substantive due process under state created danger theory; violation of right to equal protection guaranteed by 14 th amendment (Defendants' supplied Plaintiffs with toxic water, while no other Michigan citizens were supplied with

Case Name	Date Filed	Court	Plaintiffs / Attorneys	Defendants	Legal Theories
					toxic water); and deprivation of Plaintiffs' property interest in receiving safe and potable water (a right created by Flint City Ordinance § 46-16) without due process or just compensation. Plaintiffs also assert claims based on breach of contract, unjust enrichment, breach of implied warranty of merchantability, violation of the Michigan Consumer Protection Act, conversion (of water payments), and gross negligence. Plaintiffs seek compensatory damages.
McMillian et al. v. Snyder et al.	7-Mar-16	E.D. Mich.	Class action: Persons in Flint harmed by Safe Drinking Water Act violations or who, since April 25, 2014, have tested positive for lead in their blood; experienced personal injury due to lead exposure; or owned or rented Flint property / <i>Napoli Shkolnik (New York, NY); McKeen & Associates (Detroit, MI); Slater Slater Schulman LLP (New York, NY)</i>	Governmental Defendants: Gov. Rick Snyder, in his official capacity, and the State of Michigan for prospective relief only; Daniel Wyant, Liane Shekter Smith, Adam Rosenthal, Stephen Busch, Patrick Cook, Michael Prysby, and Bradley Wurfel, in their individual capacities; Darnell Earley, Gerald Ambrose, Dayne Walling, Howard Croft, Michael Glasgow, and Daugherty Johnson, in their individual and official capacities; City of Flint. LAN Defendants: Lockwood, Andrews & Newman, P.C.; Lockwood, Andrews & Newman, Inc.; and Leo A. Daly Company.	Plaintiffs allege violations of the Safe Drinking Water Act and Lead and Copper Rule, including failure to notify customers of individual results of tap water samples collected and tested for lead and failure to operate optimal corrosion control treatment; 14th amendment violations, including violation of substantive due process under the state created danger doctrine and violation of Plaintiffs' right to bodily integrity; negligence; nuisance (contamination of property interferes with enjoyment); and trespass (Defendants caused contaminants to enter upon Plaintiffs' land). Plaintiffs assert a claim of gross negligence against all governmental defendants and a claim of strict liability against the City of Flint (by reason of having marketed and promoted drinking water that was unreasonably dangerous and defective). Plaintiffs request an award of damages and equitable relief, including repairs to property, establishment of a medical monitoring fund, and appointment of a monitor to oversee water operations of Flint. Plaintiffs assert a professional negligence claim against LAN Defendants as the engineering firm responsible for placing the Flint Water Treatment Plant into operation using the Flint River.
Gilcreast et al. v. Lockwood, Andrews & Newman, P.C., et al.	31-Mar-16	E.D. Mich.	Class action: Residents and businesses of Flint / <i>National Association for the Advancement of Colored People (NAACP); Cohen Milstein Sellers & Toll PLLC (Washington, D.C.; Palm Beach Gardens, FL); Shea Aiello, PLLC (Southfield, MI); Susman Godfrey, LLP (Houston, TX; Seattle, WA; Los Angeles, CA)</i>	Engineering Defendants: Lockwood, Andrews & Newman, P.C.; LAN Inc.; Leo A. Daly Company; Veolia North America, LLC; Veolia Environment S.A. Governmental Defendants: State of Michigan; Michigan Department of Environmental Quality (MDEQ); Gov. Rick Snyder; Daniel Wyant; Liane Shekter Smith; Adam Rosenthal; Stephen Busch; Patrick Cook; Michael Prysby; Bradley Wurfel; Darnell Earley; Gerald Ambrose; Edward Kurtz; and Michael Glasgow.	Plaintiffs assert a claim of professional negligence against engineering Defendants. Against governmental Defendants, Plaintiffs assert claims based on violation of the Safe Drinking Water Act's notification requirements and requirement to operate optimal corrosion control treatment; inverse condemnation (alleging Defendants' actions destroyed or diminished the value of Plaintiffs' property, without due process or just compensation as required by Michigan's Constitution, for the public purpose of reducing the cost to the City and its residents of providing water to residents); and trespass (Defendants' actions caused lead and bacteria to enter the drinking water of the City of Flint, which in turn entered upon land owned by Plaintiffs). Against all Defendants, Plaintiffs assert claims of gross negligence; negligence; intentional infliction of emotional distress; negligent infliction of emotional distress; nuisance (contamination of property interferes with use and enjoyment of homes); unjust enrichment (governmental Defendants received payments for contaminated water and engineering Defendants

Case Name	Date Filed	Court	Plaintiffs / Attorneys	Defendants	Legal Theories
Washington et al. v. Snyder et al.	6-Apr-16	E.D. Mich.	Class action: Persons in Flint harmed by Safe Drinking Water Act violations or who, since April 25, 2014, have tested positive for lead in their blood; experienced personal injury due to lead exposure; or owned or rented Flint property / <i>Bern Ripka LLP (New York, NY); 1-800-LAW-FIRM (Southfield, MI); Excolo Law PLLC (Southfield, MI)</i>	Gov. Rick Snyder and Dennis Muchmore, in their individual capacities, and the State of Michigan for prospective relief only; Michigan Department of Environmental Quality (MDEQ); Michigan Department of Health & Human Services (MDHHS); Ed Kurtz, Darnell Earley, Gerald Ambrose, Howard Croft, Michael Glasgow, Daniel Wyant, Liane Shekter Smith, Stephen Busch, Patrick Cook, Michael Prysby, Bradley Wurfel, Eden Wells, Nick Lyon, Linda Dykema, Nancy Peeler, and Robert Scott, in their individual and official capacities; Rowe Professional Service Company; Lockwood, Andrews & Newman, Inc.; Veolia North America, LLC; Dayne Walling; and City of Flint.	received payment for providing engineering services that did not satisfy duties of professional responsibility). In the alternative to the state law tort claims, Plaintiffs assert a 14 th amendment procedural due process claim based on the absence in Michigan law of a meaningful post-deprivation remedy for Defendants' deprivation of Plaintiffs' liberty (bodily integrity) and state-created property interests. Lastly, Plaintiffs request a declaratory judgment that the government Defendants violated the Safe Drinking Water Act and the United State Constitution, as well as monetary damages and an order to the governmental Defendants to remediate Flint's water system to comply with Federal and State environmental laws.
					Plaintiffs assert multiple constitutional violations, including (1) violation of 14th amendment right to substantive due process based on fundamental property right to purchase and receive safe, potable water, a right created by the actions of the parties and by Flint Ordinance § 46-16; (2) violation of 14th amendment right to procedural due process (deprived of contractually based property right to purchase safe water without notice, hearing, or compensation); (3) violation of 14th amendment right to substantive due process under state created danger doctrine; (4) violation of 14th amendment right to bodily integrity. Plaintiffs further allege breach of contract; breach of implied warranty of fitness of water for human consumption; unjust enrichment; nuisance (contamination of property interferes with enjoyment); trespass (Defendants caused contaminants to enter upon Plaintiffs' land); gross negligence; intentional infliction of emotional distress; and negligent infliction of emotional distress (alleging special relationship in which Defendants were persons entrusted with protection of Plaintiffs' most basic needs, including water, health, and safety, and Defendants placed Plaintiffs in a zone of physical danger, causing them severe emotional distress and causing Plaintiffs to contemporaneously perceive the exposure of their immediate family members to lead contaminated water). Plaintiffs' claims against private engineering firms are based on negligence, professional negligence, and gross negligence. Plaintiffs assert civil RICO claims under 18 U.S.C. §§ 1962 (c) and (d), claiming Defendants conspired to, and for approximately two years did, carry out a fiscal scheme and conspiracy to balance Flint's budget through the fraudulent sale of toxic water, which they actively attempted to conceal for two years. Predicate acts of racketeering include mail and wire fraud (18 U.S.C. § 1961(1)(B)) and acts in connection with contemplation of municipal bankruptcy which allegedly occurred in the course of appointing an Emergency Manager (18 U.S.C. § 1961(1)(D)).

Case Name	Date Filed	Court	Plaintiffs / Attorneys	Defendants	Legal Theories
State Jurisdiction					
Shears et al. v Bingaman et al.	15-Sep-14	Genesee Cnty Circuit Court	Class action / Valdemar Washington (Flint, MI)	Douglas Bingaman and Darnell Earley, in their individual and official capacities; City of Flint.	*A Complaint has not been located for this case; however, from other sources, the case appears to have alleged that the City acted improperly when it implemented new water and sewer rates on September 16, 2011, because it did not follow City ordinances. The lawsuit alleges an unconstitutional deprivation of property without due process and seeks refunds for overcharges. Related article: City of Flint Strategic Plan, Oct.–Dec. 2015 (Case Summary Included)
Coalition for Clean Water v. City of Flint et al. -	5-Jun-15	Genesee Cnty Circuit Court	Coalition for Clean Water / Trachelle Young (Flint, MI)	City of Flint, Natasha Henderson, Dayne Walling.	*A Complaint has not been located for this case; however, from other sources, the case appears to have alleged that the City recklessly endangered the lives of Flint residents by switching its primary water source to the Flint River and was deceitful in addressing violations of the Safe Drinking Water Act. Related articles: Lawsuit seeks end to Flint River drinking water, return to Detroit Water coalition drops federal claim, Flint calls lawsuit 'baseless'
Collins et al. v. Snyder et al.	7-Jan-16	Genesee Cnty Circuit Court	Class action: Flint residents who paid water bills from April 2014 to present / <i>Brenda Williams (Flint, MI)</i>	Governor Rick Snyder, in his official capacity, and the State of Michigan for prospective relief only; Darnell Earley; Dayne Walling, Howard Croft; City of Flint.	Plaintiffs assert claims based on (1) breach of contract to sell water created by Flint City Ordinance § 46-16; (2) unjust enrichment; (3) breach of implied warranty of fitness of water for intended use; and (4) unfair and deceptive acts in violation of Michigan Consumer Protection Act.
Mays et al. v. City of Flint et al.	19-Jan-16	Genesee Cnty Circuit Court	Class action: Flint water users / <i>Goodman & Hurwitz (Detroit, MI); Pitt McGehee Palmer & Rivers (Royal Oak, MI); Trachelle C Young & Associates, PLLC (Flint, MI); Law Offices of Deborah A. La Belle (Ann Arbor, MI)</i>	City of Flint; Receivership Transition Advisory Board; Natasha Henderson; Eden Wells; Stephen Busch; Liane Shekter-Smith; Adam Rosenthal; Patrick Cook; Michael Prysby; Bradley Wurfel; Howard Croft; Michael Glasgow; Daugherty Johnson.	Plaintiffs' claims are based on (1) Gross Negligence and (2) Intentional Misconduct, Fraud, Assault and Battery, and Intentional Infliction of Emotional Distress (IIED) (this cause of action seems to assert that the misconduct constitutes outrageous and shocking behavior supporting an IIED claim). Plaintiffs also request immediate and long-term injunctive and declaratory relief to enjoin future shut-offs and declare water bills null and void.

Case Name	Date Filed	Court	Plaintiffs / Attorneys	Defendants	Legal Theories
Mays et al. v. Snyder et al.	20-Jan-16	Court of Claims	Class action: Flint water users / <i>Goodman & Hurwitz (Detroit, MI); Pitt McGehee Palmer & Rivers (Royal Oak, MI); Trachelle C Young & Associates, PLLC (Flint, MI); Law Offices of Deborah A. La Belle (Ann Arbor, MI)</i>	Gov. Rick Snyder, in his official capacity; the State of Michigan, acting through the Governor's Office, MDEQ, MDHHS; Darnell Earley and Jerry Ambrose, in their official capacities.	Plaintiffs assert multiple violations of the Michigan Constitution, including: (1) violation of substantive due process under Article 1, § 17, based on state created danger doctrine; (2) violation of substantive due process / bodily integrity protected by Article 1, § 17 ; (3) denial of fair and just treatment during executive investigations in violation of substantive due process under Article 1, § 17; and (4) unconstitutional taking of property in violation of Article 10, § 2, based upon deterioration and/or destruction caused to Plaintiffs' water service lines due to Defendants' affirmative actions, including substitution of toxic water for safe water and continued decision not to use anti-corrosive agents. Plaintiffs seek an award of damages as well as equitable relief to remediate harm, including repairs to property, establishment of medical monitoring fund, and appointment of monitor to oversee water operations of Flint.
Kidd et al. v. McLaren Regional Medical Center et al.	1-Feb-16	Genesee Cnty Circuit Court	Troy Kidd , as Personal Representative of the Estate of Debra Kidd / <i>Fieger Law (Southfield, MI)</i> Connie Taylor / <i>Fieger Law (Southfield, MI)</i> Brian Kelsey / <i>Fieger Law (Southfield, MI)</i> Larry Balknight / <i>Fieger Law (Southfield, MI)</i>	McLaren Regional Medical Center; Stephen Busch; Patrick Cook; Michael Prisby [sic]; Adam Rosenthal; Liane Shekter-Smith; Bradley Wurfel.	Plaintiffs are patients of McLaren Regional Medical Center (McLaren) who contracted Legionnaire's disease shortly after being treated at McLaren's Flint facility. Plaintiffs assert a premises liability claim against McLaren, claiming it owed a duty to Plaintiffs to prevent unreasonable risk of harm caused by dangerous conditions on the premises, including exposure to a water supply and air treatment and cooling system contaminated with Legionella bacteria. Plaintiffs assert a claim of gross negligence against the governmental defendants based on their actions that allegedly created, increased and prolonged hazards caused by the Flint River water supply.
Complaint: Violation of Michigan Legal Defense Fund Act	11-Mar-16	Secretary of State	Complaint filed by Progress Michigan / Lonnie Scott	Gov. Rick Snyder	Complaint asserts that Governor Snyder has violated the Michigan Legal Defense Fund Act by failing to establish a Legal Defense Fund to pay the costs of two contracts to provide legal defense for him personally, not for the State, in connection with the Flint water crisis.
Nappier v. Snyder et al.	23-Mar-16	Court of Claims	Class action: Minor children residing in Flint from April 25, 2014, through date of trial, who have been brain damaged due to	Gov. Rick Snyder, Darnell Earley, and Gerald Ambrose, in their individual capacities; Daniel Wyant, Liane Shekter Smith, Stephen Busch, Patrick Cook,	Plaintiffs' claim is based on gross negligence and/or negligence, asserting that Defendants breached duties to refrain from providing contaminated water, to ensure appropriate corrosive control measures, to properly test and inspect, to comply with federal and state requirements, to warn of dangers, to appropriately respond to

Case Name	Date Filed	Court	Plaintiffs / Attorneys	Defendants	Legal Theories
			ingestion of lead-poisoned water / <i>Hertz Schram (Bloomfield Hills, MI)</i>	Michael Prysby, Bradley Wurfel, Eden Victoria Wells, Nick Lyon, Nancy Peeler, and Robert Scott, in their individual and official capacities.	tests and studies, and to refrain from providing false information.
Notice of Intent to Sue: City of Flint v. State of Michigan et al.	24-Mar-16	Court of Claims	Notice of Intent to Sue filed by City of Flint / <i>Anthony K. Chubb (Interim Chief Legal Officer, City of Flint)</i>	State of Michigan, MDEQ, Mike Prysby, Steve Busch, Adam Rosenthal, Pat Cook.	Notice asserts that irreversible damage to Flint water system infrastructure was caused by MDEQ employees' grossly negligent oversight. Notice further asserts that the City switched to the Flint River in reliance on information provided by State employees, including those named, which incorrectly indicated that the switch would comply with applicable laws.
State of Michigan v. Veolia et al.	22-Jun-16	Genesee Cnty Circuit Court	State of Michigan / <i>Bill Schuette (Attorney General, State of Michigan); Todd Flood and Noah D. Hall (Special Assistant Attorneys General, Office of Special Counsel, State of Michigan); Gary D. Reeves & Donald R. Sheff, II (Detroit, MI)</i>	Veolia North America, Inc.; Veolia North America, LLC; Veolia Water North America Operating Services, LLC; Veolia Environment, S.A.; Lockwood, Andrews & Newman, P.C.; Lockwood Andrews & Newman, Inc.; Leo A. Daly Company.	Plaintiff State of Michigan asserts claims in <i>parens patriae</i> against seven Defendant water engineering services firms that performed work for the City of Flint related to treatment of water from the Flint River. Plaintiffs assert one count of professional negligence against all Defendants; one count of fraud against Defendant Veolia; and one count of public nuisance against all Defendants.

List of Defendants

Defendants and Titles

Defendant	Role
Gerald Ambrose	Flint Emergency Manager, Jan. 13, 2015 - April 28, 2015
Stephen Busch	Lansing District Supervisor, Michigan Department of Environmental Quality (MDEQ)
Patrick Cook	Water Treatment Specialist, Lansing Community Drinking Water Unit, MDEQ
Howard Croft	Director of Public Works, City of Flint
Linda Dykema	Director, Division of Environmental Health, Michigan Department of Health and Human Services (MDHHS)
Darnell Earley	Flint Emergency Manager, Nov. 1, 2013 - Jan. 12, 2015
Michael A. Finney	Member, Flint Receivership Transition Advisory Board
Michael Glasgow	Utilities Administrator, City of Flint
Frederick Headen	Chairperson, Flint Receivership Transition Advisory Board

Defendant	Role
Natasha Henderson	City Administrator, City of Flint
Daugherty Johnson	Utilities Administrator, City of Flint
Nick A. Khouri	Secretary of Treasury, State of Michigan
Ed Kurtz	Flint Emergency Manager, Aug. 8, 2012 - May 20, 2013
Nick Lyon	Director, MDHHS
David McGhee	Member, Flint Receivership Transition Advisory Board
Dennis Muchmore	Chief of Staff to Governor Rick Snyder
Nancy Peeler	Lead, Childhood Lead Poisoning Prevention Program, MDHHS
Michael Prysby	Engineer, District 11 (Genesee County), MDEQ
Adam Rosenthal	Water Quality Analyst, Lansing District Office, MDEQ
Robert Scott	Data Manager, Healthy Homes and Lead Prevention Program, MDHHS
Liane Shekter Smith	Chief, Office of Drinking Water and Municipal Assistance, MDEQ
Richard Dale Snyder	Governor, State of Michigan
Michael A. Townsend	Member, Flint Receivership Transition Advisory Board
Beverly Walker-Griffea	Member, Flint Receivership Transition Advisory Board
Dayne Walling	Mayor of Flint, Aug. 4, 2009 - Nov. 9, 2015
Eden Wells	Chief Medical Executive, Population Health and Community Services Department, MDHHS
Bradley Wurfel	Director of Communications, MDEQ
Daniel Wyant	Director, MDEQ
<i>Corporate/Limited Liability Defendants</i>	
Leo A. Daly Company (Nebraska Corporation)	Owner of LAN Inc. and LAN PC.
Lockwood, Andrews & Newman, Inc. (Texas Corporation)	Parent company to LAN P.C., a Michigan Corporation
Lockwood, Andrews & Newman, P.C. (Michigan Corporation)	Professional Engineering Firm hired by City of Flint
Rowe Professional Service Company	Professional Engineering Firm hired by City of Flint
Veolia Environment, S.A. (French transnational corporation)	Parent company to Veolia North America
Veolia North America, Inc. (Delaware Corporation)	Professional Engineering Firm hired by City of Flint
Veolia North America, LLC (Delaware Corporation)	Professional Engineering Firm hired by City of Flint



Defendant**Role**

Veolia Water North America Operating Services, LLC (Delaware Limited Liability Company)

Professional Engineering Firm hired by City of Flint

SUPPORTERS

Robert Wood Johnson Foundation

The Network for Public Health Law is a national initiative of the Robert Wood Johnson Foundation with direction and technical assistance by the Public Health Law Center at Mitchell Hamline School of Law.

This document was developed by [Colleen Healy](#), Staff Attorney with the Network for Public Health Law – Mid-States Region at the University of Michigan School of Public Health. The Network for Public Health Law provides information and technical assistance on issues related to public health. The legal information and assistance provided in this document does not constitute legal advice or legal representation. For legal advice, please consult specific legal counsel.