

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

_____/

FIFTH AMENDED CASE MANAGEMENT ORDER

This Case Management Order (CMO) shall not apply to those defendants who have not filed an answer, except as otherwise provided by Court order. Any defendant to which this order does not apply shall be treated as a non-party for the purposes of discovery, subject to the defendant's properly raised objection. Non-parties who have been previously identified as defendants shall be entitled to participate in discovery initiated by other parties. If and when any such defendants file an answer, such defendants shall be entitled to initiate discovery, the timing and manner of which shall then be established by this Court.

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I. Discovery Coordination Protocol

A. Scope

(1) The purpose of this Order is to effectuate efficiency and limit duplication in the discovery processes associated with litigation arising out of claims made regarding the use of the Flint River as a water source.

Section I (Discovery Coordination Protocol) was adapted from the

Amended Discovery Coordination Protocol Order (ECF No. 675) and now supersedes that order.

(2) This Order is not intended to serve as an instrument to circumvent each Judge's authority over his or her own docket, but rather as an instrument that allows for notice, attendance, and participation, if appropriate, in the discovery processes in the various venues wherein litigation involving the same or similar parties are pending in actions arising out of the same or similar events.

(3) This Order shall apply to all cases, currently or in the future, consolidated or coordinated into the Flint Water Cases before the Honorable Judith E. Levy. In that regard, it applies to all discovery permitted under the Federal Rules of Civil Procedure, including, without limitation: (i) depositions noticed under Rule 30; (ii) document requests and requests to inspect and/or permit entry onto property issued under Rule 34; (iii) subpoenas *duces tecum* issued under Rule 45 (iv) interrogatories under Rule 33; (v) motions for physical and mental examination under Rule 35; and (vi) requests for admission under Rule 36.

(4) The Court recognizes that effective coordination will require the

approval and cooperation of the judges in the various state and federal cases that are not consolidated in the current case (5:16-cv-10444), including the entry of a complementary order(s) sufficient to accomplish that coordination in those other cases.¹

B. Definitions

(1) “Federal Flint Water Cases” means all cases that are, currently or in the future, consolidated or coordinated into the above captioned case; and, subject to the entry of necessary complementary order(s): (i) *In re FTCA Flint Water Cases*, Case No. 17-11218, currently pending before the Hon. Linda V. Parker² and (ii) any other federal court cases for which the Court determines that discovery coordination would be in the interest of justice.

(2) “State Flint Water Cases” means, subject to the entry of any necessary complementary order(s), all cases that are, currently or in the

¹ McLaren Regional Medical Center (“MRMC”) reserves the right to object to the entry of a complementary order in any state court case against MRMC in which it is alleged that individuals contracted Legionnaires’ Disease at McLaren Flint Hospital after April 2014. All parties to cases in other venues, including state courts, the Michigan Court of Claims, and *In re FTCA Flint Water Cases*, Case No. 17-11218 shall have the right to object to the entry of a complementary order in those cases.

² The Hon. Linda V. Parker entered a complementary Discovery Coordination Protocol Order on March 3, 2020. (17-11218, ECF 112.)

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