

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re Flint Water Cases

No. 5:16-cv-10444-JEL-EAS

HON. JUDITH E. LEVY

MAG. ELIZABETH A. STAFFORD

**PLAINTIFFS' MOTION FOR ENTRY OF
FINAL JUDGMENT**

Settlement Class Representatives Rhonda Kelso, Barbara Davis, Darrell Davis, Tiantha Williams, Michael Snyder, as personal representative of the Estate of John Snyder, Elnora Carthan, David Munoz, 635 South Saginaw LLC, Frances Gilcreast, and Neil Helmkey, on behalf of themselves and all members of the Settlement Class defined herein, and Individual Plaintiffs,¹ through Co-Liaison

¹ "Individual Plaintiffs" shall mean for the purposes of this Motion all persons and entities listed on Exhibit 1 to the Settlement Agreement, and all other persons and entities, who are not Settlement Class Members and who are registered Claimants. Decl. of Theodore J. Leopold in Supp. of Pls.' Mot. to Establish Settlement Claims Procedures & Allocation & for Prelim. Approval of Class Components, Ex. B, Am. Settlement Agreement Exs. 1a-1b, ECF No. 1319-2, PageID.40413-40738. In addition, Future Minor Claimants who register pursuant to Article VI of the Settlement Agreement, and any individual who accepts a settlement under the entered Case Management Orders attached as Exhibit 11 to the Settlement Agreement, shall also be included in the definition of "Individual Plaintiffs" for purposes of this Motion. Notice re Pls.' Mot. for Settlement Approval, Am. Settlement Agreement, Art. VI, ECF No. 1394-2, PageID.54148-54149; Notice re Pls.' Mot. for Settlement Approval, Ex. E, Am. Settlement Agreement Ex. 11, Case Management Order, ECF No. 1394-9.

Counsel, move for entry of Final Judgment as to all claims between Plaintiffs and the Settling Defendants.² In support of this motion, Plaintiffs provide the following:

1. The Court has jurisdiction over the subject matter of this litigation and over the parties to the Settlement Agreement, including all Plaintiffs and the Settling Defendants.

2. On November 10, 2021 this Court granted final approval of the partial Settlement between Plaintiffs and Settling Defendants. Op. & Order Granting Final Approval of a Partial Settlement, Granting Certification of a Settlement Class, Granting Appointment of Settlement Class Counsel, ECF No. 2008 (“Order”).

3. In that Order, the Court certified a Settlement Class under Federal Rule of Civil Procedure 23(e), defined as:

Settlement Class: all persons or entities who are or could be claiming personal injury, property damage, business economic loss, unjust enrichment, breach of contract, or seeking any other type of damage or relief because at any time during the Exposure Period they: (1) were an Adult who owned or lived in a residence that received water from the Flint Water Treatment Plant or were legally liable for the payment of such water; (2) owned or operated a business including income earning real property and any other businesses, that received water from the Flint Water Treatment Plant or were legally liable for the payment for such water; or (3) were an Adult during the Exposure Period and who ingested or came into contact with water received from the Flint Water Treatment Plant.

² The Settling Defendants are fully defined herein in paragraph 8. “Plaintiffs” means members of the “Settlement Class” and “Individual Plaintiffs,” defined herein.

Excluded from the Settlement Class are: (1) Defendants; (2) the judicial officers to whom this case is assigned in the Federal Court, Genesee County Circuit Court, and Court of Claims, their staff, and the members of their immediate families; (3) all Individual Plaintiffs; and (4) all persons who timely and validly elect to opt-out of the Settlement Class.

Id. at 175-76, PageID.69711-69712.

4. The Court also certified three Settlement Subclasses defined as:

Adult Exposure Subclass: all persons who were Adults during the Exposure Period and who ingested or came into contact with water received from the Flint Water Treatment Plant at any time during the Exposure Period and who are claiming or could claim a resulting personal injury. All Adults listed on Exhibit 1 to the Settlement Agreement are excluded from this Subclass.

Business Economic Loss Subclass: all individuals or entities who owned or operated a business, including income earning real property and any other businesses, that received water from the Flint Water Treatment Plan at any time during the Exposure Period and who are claiming or could claim a resulting business economic loss. Excluded from the Business Economic Loss Subclass are all local, state, or federal government offices or entities and any individual or entity listed on Exhibit 1 to the Settlement Agreement.

Property Damage Subclass: all Adults or entities who owned or were the lessee of residential real property that received water from the Flint Water Treatment Plant, or were legally liable for the payment for such water, at any time during the Exposure Period. Excluded from the Property Damage Subclass are all local, state, or federal government entities which own real property and any individual or entity listed on Exhibit 1 to the Settlement Agreement.

Id. at 176, PageID.69712.

5. The Court appointed the following individuals to serve as Settlement Class Representatives: Rhonda Kelso, Barbara Davis, Darrell Davis, Tiantha Williams, Michael Snyder, as personal representative of the Estate of John Snyder, Elnora Carthan, David Munoz, 635 South Saginaw LLC, Frances Gilcreast, and Neil Helmkey. *Id.* at 177, PageID.69713.

6. The Court also appointed Cohen Milstein Sellers & Toll PLLC and Pitt, McGehee, Palmer, Bonanni & Rivers, P.C., and the Executive Committee, to serve as Settlement Class Counsel under Federal Rule of Civil Procedure 23(g) to represent the Settlement Class and Subclasses. *Id.*

7. In that Order, the Court also reiterated its prior Order approving the Settlement procedures related to Minors and Legally Incapacitated Individuals (“LIIs”). *Id.* at 45-56, PageID.69581-69592.

8. Pursuant to Article XVI of the Amended Settlement Agreement, Plaintiffs agree to release all claims against the Settling Defendants which include the State of Michigan, Michigan Department of Environmental Quality (now the Michigan Department of Environment, Great Lakes, and Energy), Michigan Department of Health and Human Services, Michigan Department of Treasury, former Governor Richard D. Snyder, Governor Gretchen Whitmer, the Flint Receivership Transition Advisory Board, Liane Shekter Smith, Daniel Wyant, Stephen Busch, Kevin Clinton, Patrick Cook, Linda Dykema, Michael Prysby,

Bradley Wurfel, Eden Wells, Nick Lyon, Dennis Muchmore, Nancy Peeler, Robert Scott, Adam Rosenthal, Andy Dillon, the City of Flint, Darnell Earley, Howard Croft, Michael Glasgow, Gerald Ambrose, Edward Kurtz, Michael Brown, Dayne Walling, Daugherty Johnson, McLaren Health Care Corporation, McLaren Regional Medical Center, McLaren Flint Hospital, and Rowe Professional Services Company. Am. Settlement Agreement, Art. XVI, ECF No. 1394-2, PageID.54175-54178.

9. Accordingly, Plaintiffs move for entry of Final Judgment pursuant to Federal Rules of Civil Procedure 54(a) and (b), as to Plaintiffs and Settling Defendants. Plaintiffs also ask that any entry of Final Judgment constitute a separate document for purposes of Federal Rule of Civil Procedure 58(a).

10. Without affecting the finality of the Judgment in any way, Plaintiffs note that this Court retains continuing jurisdiction over: (a) the implementation of this Settlement and any distribution to members of the Settlement Class pursuant to further orders of the Court; (b) disposition of the Settlement Fund; (c) determining attorneys' fees, costs, expenses, and interest; (d) the Action until the Final Judgment contemplated herein has become effective and each and every act agreed to be performed by the parties all have been performed pursuant to the Settlement Agreement; (e) hearing and ruling on any matters relating to the distribution of Settlement proceeds; and (f) all parties to the Action and Releasing Parties, for the purpose of enforcing and administering the Settlement Agreement and the mutual

releases and other documents contemplated by, or executed in connection with Settlement Agreement.

11. This Motion supersedes the previous Settlement Class Plaintiffs' Motion for Entry of Final Judgment, ECF No. 2014.

Dated: December 22, 2021

Respectfully submitted,

/s/ Corey M. Stern

Corey M. Stern
LEVY KONIGSBERG, LLP
800 Third Avenue,
11th Floor
New York, NY 10022
(212) 605-6298 Telephone
cstern@levylaw.com

/s/ Theodore J. Leopold

Theodore J. Leopold
Leslie M. Kroeger
**COHEN MILSTEIN SELLERS &
TOLL PLLC**
11780 U.S. Highway One
Suite N500
Palm Beach Gardens, FL 33408
(561) 515-1400 Telephone
tleopold@cohenmilstein.com
lkroeger@cohenmilstein.com

/s/ Hunter Shkolnik

Hunter Shkolnik
NAPOLI SHKOLNIK PLLC
270 Munoz Rivera Avenue,
Suite 201
Hato Rey, Puerto Rico 00918
(787) 493-5088 Telephone
hunter@napolilaw.com

/s/ Michael L. Pitt

Michael L. Pitt
Cary S. McGehee
**PITT MCGEHEE PALMER
BONANNI & RIVERS, P.C.**
117 West 4th Street
Suite 200
Royal Oak, MI 48067
(248) 398-9800 Telephone
mpitt@pittlawpc.com
cmcgehee@pittlawpc.com

Joseph M. Sellers
Kit A. Pierson
Emmy L. Levens
Jessica B. Weiner
Alison S. Deich
**COHEN MILSTEIN SELLERS &
TOLL PLLC**
1100 New York Ave. NW
Suite 500
Washington, DC 20005

Paul Novak (P39524)
Diana Gjonaj (P74637)
Gregory Stamatopoulos (P74199)
WEITZ & LUXENBERG, P.C.

(202) 408-4600 Telephone
jsellers@cohenmilstein.com
kpierson@cohenmilstein.com
elevens@cohenmilstein.com
jweiner@cohenmilstein.com
adeich@cohenmilstein.com

Vineet Bhatia
Shawn Raymond
SUSMAN GODFREY, L.L.P.
1000 Louisiana Street
Suite 5100
Houston, TX 77002
(713) 651-3666 Telephone
vbhatia@susmangodfrey.com
sraymond@susmangodfrey.com

Stephen Morrissey
Jordan Connors
SUSMAN GODFREY, L.L.P.
1201 Third Ave.
Suite 3800
Seattle, WA 98101
(206) 516-3880 Telephone
smorrissey@susmangodfrey.com
jconnors@susmangodfrey.com

Peretz Bronstein
Shimon Yiftach
**BRONSTEIN, GEWIRTZ &
GROSSMAN, LLC**
60 East 42nd Street
Suite 4600
New York, NY 10165
(212) 697-6484 Telephone
peretz@bgandg.com
shimony@bgandg.com

Bradford M. Berry
Anson C. Asaka

3011 West Grand Boulevard
24th Floor
Detroit, MI 48226
(313) 800-4170 Telephone
pnovak@weitzlux.com
dgjonaj@weitzlux.com
gstamatopoulos@weitzlux.com

Robin L. Greenwald
WEITZ & LUXENBERG, P.C.
700 Broadway
New York, NY 10003
(212) 558-5500 Telephone
rgreenwald@weitzlux.com

Esther E. Berezofsky
MOTLEY RICE LLC
210 Lake Drive East
Suite 101
Cherry Hill, NJ 08002
(856) 667-0500 Telephone
eberezofsky@motleyrice.com

Teresa Caine Bingman (P56807)
**THE LAW OFFICES OF TERESA
A. BINGMAN, PLLC**
120 N. Washington Square
Suite 300
Lansing, MI 48933
(877) 957-7077 Telephone
tbingman@tbingmanlaw.com

William Goodman (P14173)
Julie H. Hurwitz (P34720)
Kathryn Bruner James (P71374)
GOODMAN & HURWITZ PC
1394 E. Jefferson Ave.
Detroit, MI 48207
(313) 567-6170 Telephone
bgoodman@goodmanhurwitz.com

NAACP
4805 Mt. Hope Dr.
Baltimore, MD 21215
(410) 580-5777 Telephone
bberry@naacpnet.org
aasaka@naacpnet.org

Kathryn P. Hoek
SUSMAN GODFREY, L.L.P.
1901 Avenue of the Stars
Suite 950
Los Angeles, CA 90067
(310) 789-3100 Telephone
khoek@susmangodfrey.com

Neal H. Weinfield
THE DEDENDUM GROUP
(312) 613-0800 Telephone
nhw@dedendumgroup.com

Cirilo Martinez (P65074)
**LAW OFFICE OF CIRILO
MARTINEZ, PLLC**
3010 Lovers Lane
Kalamazoo, MI 49001
(269) 342-1112 Telephone
martinez_cirilo@hotmail.com

David J. Shea
SHEA AIELLO, PLLC
26100 American Drive
2nd Floor
Southfield, MI 48034
(248) 354-0224 Telephone
david.shea@sadplaw.com

Mark L. McAlpine (P35583)
Jayson E. Blake (P56128)
MCALPINE PC
3201 University Drive

jhurwitz@goodmanhurwitz.com
kjames@goodmanhurwitz.com

Deborah A. LaBelle (P31595)
**LAW OFFICES OF DEBORAH A.
LABELLE**
221 N. Main St.
Suite 300
Ann Arbor, MI 48104
(734) 996-5620 Telephone
deblabelle@aol.com

Trachelle C. Young (P63330)
**TRACHELLE C. YOUNG &
ASSOCIATES PLLC**
2501 N. Saginaw St.
Flint, MI 48505
(810) 239-6302 Telephone
trachelleyoung@gmail.com

Brian McKeen (P34123)
Claire Vergara (P77654)
McKEEN & ASSOCIATES, PC
645 Griswold Street
Suite 4200
Detroit, MI 48226
(313) 961-4400 Telephone
bjmckeen@mckeenassociates.com
cvergara@mckeenassociates.com

Cynthia M. Lindsey (P37575)
Shermane T. Sealey (P32851)
**CYNTHIA M. LINDSEY &
ASSOCIATES, PLLC**
8900 E. Jefferson Avenue
Suite 612
Detroit, MI 48214
(248) 766-0797 Telephone
cynthia@cmlindseylaw.com
shermane@cmlindseylaw.com

Suite 100
Auburn Hills, MI 48326
(248) 373-3700 Telephone
mlmcalpine@mcaldpinelawfirm.com
jeblake@mcaldpinelawfirm.com

Andrew P. Abood (P43366)
ABOOD LAW FIRM
246 East Saginaw Street
Suite One
East Lansing, Michigan 48823
(517) 332-5900 Telephone
andrew@aboodlaw.com

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing instrument was filed with the U.S. District Court through the ECF filing system and that all parties to the above case were served via the ECF filing system on December 22, 2021.

Dated: December 22, 2021

/s/ Jessica B. Weiner

Jessica B. Weiner

**COHEN MILSTEIN SELLERS
& TOLL PLLC**

1100 New York Ave. NW

Suite 500

Washington, DC 20005

(202) 408-4600 Telephone

jweiner@cohenmilstein.com