

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF GENESEE

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IN RE FLINT WATER LITIGATION

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CASE MANAGEMENT ORDER

Pursuant to MCR 2.505 and the inherent power of the Court to control its docket, and after considering the arguments of counsel, it is hereby ORDERED as follows:

1. SCOPE OF CASE MANAGEMENT ORDER AND DEFINITIONS

- 1.1 This Case Management Order (“CMO #1”) applies to all cases filed in the Circuit Court of Genesee County in which a Plaintiff alleges personal injury, property damage or economic loss as a result of exposure to the City of Flint's drinking water.
- 1.2 To the extent they are not already before this Court, all such cases shall be transferred or reassigned to the undersigned judge of this Court. A list of the cases presently on file to which this Order applies is attached hereto as Exhibit "A."
- 1.3 To the extent that any provisions of this CMO #1 or subsequent Case Management Orders entered herein conflict with the Local Rules of Genesee County, the Local Rules are hereby suspended and the terms of this CMO #1 or subsequent Case Management Orders shall control.
- 1.4 This CMO #1, except for Section 4 and as otherwise specified elsewhere in this Order, shall apply to and control all putative class action cases filed in the Circuit Court of Genesee County in which a Plaintiff alleges personal injury, property damage or economic loss as a result of exposure to the City of Flint's drinking

water, including Case No. 16-106150-NM, styled "Jennifer Mason, et al. v. Lockwood, Andres & Newnam, P.C., et al.," currently pending in the Circuit Court for the County of Genesee, State of Michigan, which is also related to a Petition for Permission to Appeal before the United States Court of Appeal for the Sixth Circuit, Case Number 16-102, styled "Lockwood, Andrews & Newnam, PC, Lockwood, Andrews & Newnam, Inc.'s Petition for Permission to Appeal Pursuant to Federal Rule of Civil Procedure, 23(f)" (the "Jennifer Mason Case"). If, after final resolution of proceedings in the Sixth Circuit, the Jennifer Mason Case remains in this Court or if other putative class action cases are filed in or remanded to this Court, then the Court will amend this CMO #1 to address any procedural and discovery issues required for determination of the appropriateness of class certification or any other issue regarding the administration of the class action aspects of the case. Pending an amendment addressing class actions, the provisions of Section 5 shall not apply to motions for class certification or to decertify a class.

- 1.5 This CMO#1 shall also apply to and control Case No. 16-107175-NM, styled "State of Michigan v. Veolia North America, Inc., et al.," currently pending in the Circuit Court for the County of Genesee, State of Michigan, to the greatest extent possible, specifically including Sections 3, 5-7, 9-14, and 16-18, with the recognition that adjustments will have to be made to the provisions for Uniform Discovery and Depositions of the Plaintiff State of Michigan, which shall be determined by agreement of the parties or order of this Court.

2. ORGANIZATION OF COUNSEL

2.1 Lead Counsel¹ for the Plaintiffs shall be:

Corey M. Stern (P80794)
LEVY KONIGSBERG, LLP
800 Third Avenue, 11th Floor
New York, New York 10022
Telephone: (212) 605-6200
Facsimile: (212) 605-6290
cstern@levylaw.com

2.2 Lead Counsel for Plaintiffs will be responsible for coordinating the prosecution of Plaintiffs' claims and coordinating the pretrial proceedings on behalf of all Plaintiffs. Lead Counsel for Plaintiffs will provide a copy of this CMO #1 to counsel for any Plaintiffs appearing for the first time. Lead Counsel for Defendants will provide a copy of this CMO #1 to counsel for any Defendant appearing for the first time.

2.3 Lead Counsel for the Defendants² shall be:

Wayne B. Mason
SEDGWICK LLP
1717 Main Street, Suite 5400
Dallas, TX 75201-7367
Telephone: (469) 227-8200
Facsimile: (469) 227-8004
wayne.mason@sedgwicklaw.com

2.4 In the event a new case is transferred or assigned to this Court through some means other than filing a Short Form Complaint as provided herein, then Lead Counsel for Defendants will be responsible for notifying the Court, co-counsel, and Lead Plaintiffs' Counsel of the transfer or assignment of the new case.

¹ Counsel for Plaintiffs in active cases that are pending at the time this CMO #1 is entered and subject to its provisions shall be referred to herein as "Active Plaintiffs' Counsel."

² Counsel for Defendants in active cases that are pending at the time this CMO #1 is entered and subject to its provisions shall be referred to herein as "Active Defense Counsel."

- 2.5 Lead Counsel for the parties shall be responsible for maintaining and distributing to the Court, their respective co-counsel, and opposing Lead Counsel, an updated service list of counsel, including the date of the most recent revision.
- 2.6 Lead Counsel for the parties shall be responsible for receiving and distributing to co-counsel for their respective sides orders from the Court and pleadings, depositions, discovery and other documents from opposing parties and counsel, as appropriate.
- 2.7 The Court may amend or supplement this CMO #1 as necessary to establish procedures for seeking³ an award of attorneys' fees or reimbursement of expenditures from the court (if applicable), establish a depository for all of the discovery, or otherwise provide for the organization of counsel and efficient adjudication of the parties' claims.
- 2.8 For purposes of compliance with MCR 8.126, all cases covered by this CMO #1 shall be considered one case for any attorney seeking *pro hac vice* admission.

3. FILING AND SERVICE

- 3.1 All papers filed in any cases transferred or assigned to this Court shall list the master file number and shall refer to this group of consolidated cases as "IN RE FLINT WATER LITIGATION." When the paper relates to all actions, the consolidated docket number must be followed by the notation "ALL CASES."³ If the paper does not relate to all of the cases, then the individual docket numbers of those actions to which the paper relates must also be listed.

³ The consolidation of docket numbers and cases refers only to consolidation for the purposes set forth in this Order, and not for the purposes of trial.

- 3.2 Any paper filed in any of these actions must be filed with the Clerk of this Court.
- 3.3 Any motion or filing filed in any action by one party may incorporate by reference a motion or filing by another party to that same action. Where counsel for more than one party plans to file identical motions or other filings, they must join in the submission of those motions or other filings and will file only one motion on behalf of all so joined.
- 3.4 All pleadings in any case must be filed using the docket number assigned by the Clerk of this Court. Discovery papers and other documents not required to be filed with the court must be served electronically.
- 3.5 The parties agree to service by e-mail pursuant to MCR 2.107(C)(4). The parties further agree that the deadline for such service shall be midnight Eastern Time, instead of the 4:30 p.m. deadline contemplated by MCR 2.107(C)(4)(f).
- 3.6 Notwithstanding any provision of MCR 1.109, 2.107 or 2.108 to the contrary, if any document is sent to the proper clerk by first class United States mail in an envelope or wrapper properly addressed and stamped and is deposited in the mail on or before the last day for filing same, the same, if received by the clerk not more than ten days tardily, shall be filed by the clerk and be deemed filed in time. A legible postmark affixed by the United States Postal Service shall be prima facie evidence of the date of mailing.

4. MASTER AND SHORT FORM PLEADINGS

4.1 In accordance with the deadline set forth in this order, Individual Plaintiffs shall file one Complaint (the “Master Complaint”) containing the allegations, causes of action, and relief sought by the Plaintiffs.⁴

4.2 At their discretion, Defendants may file responsive pleadings (other than a Master Answer as described herein) in accordance with the deadline set forth in this order.

4.3 Defendants shall file a Master Answer to Plaintiffs’ Master Complaint (the “Master Answer”) in accordance with the deadline set forth in this order. The filing of the Master Answer shall not be a waiver of any issue raised by means of a timely responsive pleading other than the Master Answer even if such issue remains unresolved at the time the Master Answer is filed.

4.4 Each Plaintiff who files suit after the entry of this order shall file a short form Complaint for each Plaintiff (the “Short Form Complaint”) specifying the allegations, causes of action, and relief sought by the Plaintiff. Plaintiffs in existing cases pending as of the entry of this CMO #1 are not required to serve a Short Form Complaint. The Short Form Complaint shall include information specific to each Plaintiff and shall identify the corporate entity or entities and individual(s) the Plaintiff is suing. The Short Form Complaint shall adopt by reference, in whole or in part, the applicable Master Complaint on file with the court and may assert additional case-specific facts or allegations.

4.5 The Short Form Complaint should identify which of the allegations, causes of action, and relief sought in the Master Complaint apply to the Plaintiff.

⁴ Individual Plaintiffs in complaints filed as putative class action matters are not required to file Master or Short Form Complaints, but are otherwise subject to the provisions of this Case Management Order.

4.6 Subject to any agreement for waiver of formal service, Plaintiffs filing suit after the entry of CMO #1 must serve each Defendant the Plaintiff intends to sue with a summons and a copy of the Short Form Complaint.

4.7 Each properly served Defendant shall file a responsive Short Form Answer to the Short Form Complaint within the later of forty-five (45) days after the Master Answer is filed or the time period prescribed by the Michigan Court Rules after service of the Short Form Complaint or such other time as the parties may agree. The Short Form Answer shall adopt by reference, in whole or in part, the applicable provisions of the Master Answer and may assert additional case-specific defenses.

5. MOTION PRACTICE – BRIEFING SCHEDULES

5.1 Dispositive Motions

- a. Dispositive motions include motions for summary disposition or any other motion the granting of which would result in the disposal of a claim or party to the suit. A motion shall be regarded as dispositive even if claims or parties remain to be disposed of after the motion is granted.
- b. Motions must conform to Michigan Court Rules 2.116 and 2.119 except as modified by this section.
- c. Responses are due twenty-eight (28) days after filing and service of a motion.
- d. Reply briefs are due fourteen days (14) after a response is filed and served.

- e. A "Judge's copy" of all motions, responses and briefs are to be submitted to:

Attn: Law Clerk
Richard B. Yuille, Circuit Judge
900 Saginaw St.
Flint, MI 48502

5.2 Non-Dispositive Motions

- a. Non-dispositive motions must be filed and served at least twenty-one (21) days before any hearing as set pursuant to section 6.1 below.
- b. Responses are to be filed and served fourteen (14) days before hearing.
- c. Reply briefs are to be filed and served seven (7) days before hearing.

6. HEARINGS

- 6.1 Hearings will not be held on any motions filed, except by order of the court. Requests for hearings must be noted on the motion, response or reply and must be accompanied by a proposed Order Setting Hearing.
- 6.2 A standing hearing is hereby scheduled on the first Wednesday of each month at 1:30 p.m. to hear any pending motions filed and served by any party with adequate notice as described in section 5 above prior to the date of the standing hearing. It is the responsibility of the movant in each motion to confirm with the Court and the other parties' attorneys of record that a motion will be heard at the standing hearing. Lead Counsel shall inform the Court five days before the standing hearing of the matters for consideration at the hearing.

- 6.3 This procedure for hearing motions at the standing hearing shall not prevent a party from seeking expedited or *ex parte* relief as permitted by the Michigan Court Rules or Local Rules, provided that parties are cautioned not to seek such relief except when necessary.
- 6.4 No motion (other than dispositive motions) will be heard unless the movant certifies in the motion that the movant has conferred with opposing parties as required by the Michigan Court Rules and Local Rules.
- 6.5 The provisions of this Section 6 shall not apply to motions for class certification or to decertify a class.

7. UNIFORM DISCOVERY

- 7.1 UNIFORM DISCOVERY. In addition to the Case-Specific Discovery described herein, the parties may serve Uniform Discovery requests as set forth in this section. The Uniform Discovery requests shall consist of a Plaintiff's Fact Sheet, Uniform Requests for Production, Uniform Interrogatories and Uniform Requests for Admission. The content of the Uniform Discovery shall be agreed upon by Lead Counsel or, in the event it cannot be agreed upon shall be determined by the Court. Subsets of Uniform Discovery and Fact Sheets shall be developed where appropriate to deal with certain types of distinct claims, *e.g.*, lead exposure, Legionella, property damage, lost market value, *etc.*, so that discovery will match the type of claim being asserted.
- 7.2 The Uniform Discovery for each type of claim shall be the same in each case asserting such claim(s) and no objections, other than claims of privilege, may be asserted by the responding party. In the event the form of the Uniform Discovery is not agreed upon by Lead Counsel or ordered by the Court by the date of entry of

this order, then the Uniform Discovery requests shall be served within ten days from Lead Counsel's agreement or Order of the Court specifying the form of the Uniform Discovery requests. The parties shall have ninety (90) days to respond to any Uniform Discovery Request once served. Additional Uniform Discovery may be permitted through agreement of Lead Counsel or by the Court on the basis of good cause shown.

7.3 CLAIMANT'S FACT SHEET.

- a. Except as provided in paragraph (b) of this subsection regarding putative class actions, each Claimant shall serve on Defendants a completed Plaintiff's Fact Sheet in the form agreed upon by Lead Counsel or ordered by the Court. The completed Fact Sheet shall be affirmed by Claimant's counsel. Counsel for Defendants may use a fact sheet in the same manner as if it had been an interrogatory answer or response to a question in a deposition sworn to by the Plaintiff under oath.

Active Plaintiffs' Counsel representing more than 100 clients shall provide completed Claimant's Fact Sheets at the rate of 100 per month until completed, commencing sixty (60) days after entry of this CMO #1; Active Plaintiffs' Counsel representing 100 or fewer clients shall provide completed Plaintiffs' Fact Sheets for all clients sixty (60) days after entry of this CMO #1. For all cases commenced after entry of this CMO #1, completed Claimant's Fact Sheets must be provided thirty (30) days after filing a Short Form Complaint, unless Active Plaintiffs' Counsel is representing more than 100 clients, in which the schedule of 100 Fact Sheets

per month shall apply. The Completed Fact Sheet shall include signed authorizations for the release of medical records, school records and other similar records held or maintained by nonparties for which a release form is required for their disclosure by the nonparty. Plaintiffs' counsel shall assist in arranging the inspection of properties under MCR 2.3110 and independent physical and mental medical examinations under MCR 2.3111 for a limited number of individual cases at the request of Defense counsel for the purpose of selecting Bellwether cases (see § 15 below).

- b. In all actions filed as putative class actions and pending in this Court on the date this CMO #1 is entered, all named plaintiffs shall provide completed fact sheets not later than 30 days after that date; and in all putative class actions that are remanded to or transferred to this Court after the date this CMO #1 is entered, all named plaintiffs shall provide completed fact sheets not later than 30 days after the date the putative class action is docketed in this Court. No additional or substitute named plaintiff may appear in any putative class action subject to this order unless that person or entity has first provided a completed fact sheet

7.4 UNIFORM REQUESTS FOR PRODUCTION. Plaintiffs collectively may serve one set of Uniform Requests for Production with no more than sixty requests on each Defendant⁵ in the form agreed upon by Lead Counsel or ordered by the Court. Likewise, each Defendant may serve one set of Uniform Requests for Production

⁵ For purposes of discovery, (1) Lockwood, Andrews and Newnam, P.C.; Lockwood, Andrews and Newnam, Inc.; and Leo A. Daly Company and (2) Veolia North America LLC and Veolia North America Inc. are considered single defendants.

with no more than sixty requests on Plaintiffs in the form agreed upon by Lead Counsel or ordered by the Court.

7.5 UNIFORM INTERROGATORIES. Plaintiffs collectively may serve one set of no more than forty Uniform Interrogatories on each Defendant, exclusive of any interrogatories previously served, in the form agreed upon by Lead Counsel or ordered by the Court. Likewise, each Defendant may serve one set of no more than forty Uniform Interrogatories on each Plaintiff in the form agreed upon by Lead Counsel or ordered by the Court.

7.6 UNIFORM REQUESTS FOR ADMISSION. Plaintiffs collectively and Defendants each may serve forty Uniform Requests for Admission in the form agreed upon by Lead Counsel or ordered by the Court.

8. DEPOSITIONS OF PLAINTIFFS

8.1 Defendants collectively shall be permitted no more than eight (8) hours of examination of each Plaintiff and/or Next of friend (including time for direct/re-direct and cross/re-cross examinations) unless good cause is shown. Lead Counsel for Defendants shall have the responsibility and authority to determine who will conduct examinations for the Defendants at each deposition.

8.2 Plaintiffs and/or Next of Friend shall appear for their depositions at a location to be agreed upon by Lead Counsel or order of the Court.

9. DEPOSITIONS OF DEFENDANTS

9.1 Plaintiffs collectively shall be permitted no more than eight (8) hours of examination (including time for direct/re-direct and cross/re-cross examinations) of each representative, employee, or former employee of any of the Defendants, unless good cause is shown.

9.2 Plaintiffs collectively may take the deposition of each such individual only one time, except upon leave of Court for good cause shown.

10. DEPOSITIONS OF FACT WITNESSES

10.1 The parties shall be permitted no more than eight (8) hours a side (including time for direct/re-direct and cross/re-cross examinations) for Plaintiffs and Defendants to complete each deposition of all other fact witnesses not specified herein, unless good cause is shown. Lead Counsel for each side shall determine the counsel to conduct the examinations for their sides.

11. DEPOSITIONS OF EXPERTS

11.1 Except upon agreement of the parties or leave of Court for good cause shown, each expert may be deposed only one time, and each side collectively shall be permitted no more than twelve (12) hours of deposition testimony (including time for direct/re-direct and cross/re-cross examinations) for each of the opposing side's experts regarding general (not case-specific) subjects

12. RULES FOR DEPOSITIONS

12.1 Except upon agreement of the interested parties and the deponent or by leave of Court for good cause shown, depositions shall be limited to six (6) hours in any given day, between the hours of 9:00 a.m. and 5:00 p.m. (in the deposition location's time zone). Any deposition not completed in one day shall be scheduled to continue on the next consecutive day (excepting weekends and holidays).

12.2 For purposes of these deposition examination time limits, the court reporter shall keep track of the time used by each side in the deposition. Breaks or off-the-record discussions shall not count.

- 12.3 In the event that an interpreter is required for any deposition, then the deposition time shall be increased to 50% more than the time specified herein. If an interpreter is required, then the interpreter must be a licensed interpreter approved by the Court or agreed upon by Lead Counsel.
- 12.4 All provisions herein regarding locations and time limits for examination of witnesses may be modified by agreement of Lead Counsel or order of the Court.
- 12.5 EXHIBIT LISTS. All documents used as exhibits in depositions, hearings or other proceedings shall be marked and identified with consecutive numbers, such same numbers to be used each time the documents are used or referred to in all depositions, hearings, and/or other proceedings.
- 12.6 Lead Counsel for Plaintiffs and Defendants shall be responsible to create, maintain, revise, and distribute an exhibit list of all documents marked by their side during depositions, hearings, and other proceedings.
- 12.7 Lead counsel shall jointly prepare and distribute on a regular and timely basis updated exhibit lists. To the greatest extent practical, the parties shall use existing exhibits at trial and shall not assign new numbers to them. If parties do assign new trial exhibit numbers to existing exhibits, the trial exhibit list shall include both the previous exhibit number and any document control number.
- 12.8 The parties shall, to the greatest extent practicable, coordinate depositions with litigation in any other forum, *e.g.*, federal court or Court of Claims, so as to comply with the provisions of Sections 8 – 12 of this CMO #1, including, for example, noticing depositions in all other cases pending in other forums (except criminal

cases), so that witnesses shall only be deposed one time, except upon agreement of the parties or upon leave of Court for good cause shown.

13. ADDITIONAL DISCOVERY MATTERS

13.1 PRIVILEGE LOGS. If requested by the opposing party, a party withholding documents based on a claim of privilege or exemption from discovery shall serve a privilege log within sixty (60) days of the request for the privilege log.

13.2 DOCUMENT CONTROL NUMBERS. All documents produced by any party shall be marked with consecutive document control numbers preceded by letter(s) identifying the person producing same.

14. DOCUMENT PRODUCTION PROTOCOL

14.1 The parties shall follow the Document Production Protocol attached hereto as Exhibit "B" for all document productions.

14.2 It is anticipated that Defendants will be providing certain information/materials that are proprietary in nature. To the extent such information is provided as part of discovery, all parties shall adhere to the terms and conditions of a Stipulated Confidentiality Agreement and Protective Order, to be entered by the Court.

15. BELLWETHER TRIALS

15.1 The parties and the Court have determined that the nature and volume of this litigation makes it suitable for the use of bellwether trials, the purpose of which is to select a small number of cases to be fully developed and tried to verdict, with the expectation that their results, though not binding on other litigants, can be used by all interested parties to assist in evaluation of the other cases for purposes of settlement or trial.

15.2 CASE-SPECIFIC WRITTEN DISCOVERY (for Bellwether selection purposes)

In addition to the Uniform Discovery described above, the parties in any case that has been selected for trial by the Court may serve case-specific discovery requests as set forth in this section. The term “case-specific” shall refer to the individual claims brought by or on behalf of each individual Plaintiff. The parties shall have sixty (60) days to respond to all discovery requests served pursuant to this section. Except upon leave of Court for good cause shown, all parties are subject to the limitations set forth in this section.

15.3 CASE-SPECIFIC INTERROGATORIES. Each Defendant may serve no more than one set of interrogatories with no more than a total of thirty (30) case-specific interrogatories on each Plaintiff. Each Plaintiff may serve no more than one set of Interrogatories with no more than a total of thirty (30) case-specific interrogatories to each Defendant.

15.4 CASE-SPECIFIC REQUESTS FOR PRODUCTION. Each Defendant may serve no more than one set of requests for production with no more than a total of forty (40) case-specific requests on each Plaintiff. Each Plaintiff may serve no more than one set of requests for production with no more than a total of forty (40) case-specific requests on each Defendant.

15.5 CASE-SPECIFIC REQUESTS FOR ADMISSIONS. Each Defendant may serve no more than thirty (30) case-specific requests for admissions on each Plaintiff. Each Plaintiff may serve no more than thirty (30) case-specific requests for admissions on each Defendant.

15.6 CASE-SPECIFIC ENTRY ON LAND FOR INSPECTION AND OTHER PURPOSES (MCR 2.3110) AND PHYSICAL AND MENTAL EXAMINATIONS (MCR 2.3111). Defendants collectively may enter, inspect and test the property at which Plaintiffs reside, whether owned by Plaintiffs or by a nonparty, as permitted by MCR 2.3110, and to conduct physical and mental examinations of each Plaintiff, as permitted by MCR 2.3111.

15.7 After having a sufficient opportunity for discovery of information concerning the characteristics, claims and defenses applicable to the cases covered by this CMO #1, the parties and the Court will develop a procedure for identifying, selecting and trying an appropriate number of representative cases as Bellwether Trials.

16. MEDIATION

16.1 The parties shall participate in a global mediation. If that mediation is unsuccessful, then the Court may order individual cases to mediation.

16.2 If the parties cannot agree upon a mediator, after good faith efforts to confer, then any party may petition the Court for appointment of a mediator.

17. PRE-TRIAL DEADLINES.

17.1 The following deadlines are established for all cases.

| DISCOVERY | | |
|---|---|--|
| Master Complaint | Plaintiffs shall file their Master Complaint | 20 days after entry of CMO #1 |
| Responsive Pleadings (non-answer) | Defendants shall file any responsive pleadings (other than the Master Answer) | 45 days after filing of Plaintiffs' Master Complaint |
| Master Answer | Defendants shall file their Master Answer | The later of 90 days after filing of Plaintiffs' Master Complaint or 45 days after the Court's last ruling on any non-answer responsive pleading (if any) filed by any of the Defendants |
| Joinder of Parties | Motions to join additional parties must be filed | 90 days after filing of Defendants' Master Answer |
| Notice of nonparties at fault | Notices of nonparties at fault, MCR 2.112(K), must be filed | 120 days after filing of Defendants' Master Answer |
| Completed Plaintiffs' Fact Sheets | Each Plaintiff shall serve a completed fact sheet pursuant to this CMO | See Section 7.3 |
| Uniform Discovery Requests | The Parties shall serve Uniform Discovery Requests pursuant to this CMO. | 45 days after filing of Defendants' Master Answer |
| Amended or Supplemental Master Complaint (Master Complaint) | Plaintiffs shall file their amended or supplemental Master Complaint | 120 days after filing of Defendants' Master Answer |
| Amended or Supplemental Master Answer (Master Answer) | Defendants shall file their amended or supplemental Master Answer | The later of 120 days after Defendants' Master Answer or 30 days after filing of Plaintiffs' Amended or Supplemental Master Answer |
| DISCOVERY | | |
| Fact Witness depositions, including party depositions of | All depositions of witnesses (excluding experts) on general matters that are not case specific must be completed. | To be determined by the Court |
| Close of Fact Discovery | | [To be determined by the Court] |

| | | |
|--|---|---|
| Designation of Testifying Experts for Plaintiffs (or any party seeking affirmative relief) | All general subject retained testifying expert witnesses (<i>i.e.</i> , not case-specific Bellwether Trial experts) must be designated and written expert report and curriculum vitae provided | 270 days after filing of Plaintiffs' Master Complaint (or filing of party's pleading seeking affirmative relief) |
| Production of Plaintiffs' experts' file materials | All retained experts witnesses for Plaintiffs must produce their entire file and any materials relied upon in formulating their opinions | 30 days after designation |
| Depositions of Testifying Experts for Plaintiffs (or any party seeking affirmative relief) | Each retained testifying expert shall be made available for deposition | Reasonably promptly (not to exceed 90 days) after designation |
| Designation of Testifying Experts for Defendants (or party not seeking affirmative relief) | All general subject retained testifying expert witnesses (<i>i.e.</i> , not case-specific Bellwether Trial experts) must be designated and written expert report and curriculum vitae provided | The later of 90 days after designation or 15 days after completion of deposition of Plaintiffs' Retained Testifying Experts on the same subject |
| Production of Defendants' experts' file materials | All retained experts witnesses for Defendants must produce their entire file and any materials relied upon in formulating their opinions | 30 days after designation |
| Depositions of Testifying Experts for Defendants (or party not seeking affirmative relief) | Each retained testifying expert shall be made available for deposition. | Reasonably promptly (not to exceed 90 days) after designation |
| | | |
| Identification, Selection, Discovery and Trial of Bellwether Trial Candidates | [As provided in Section 15 and determined by the parties and the Court] | As provided in Section 15 and determined by the parties and the Court |

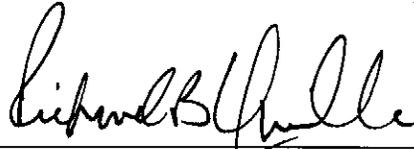
| | | |
|-----------|---|--|
| Mediation | The parties shall participate in a global mediation. If that mediation is unsuccessful, then the Court may order individual cases to mediation. | The global mediation is to be scheduled following the close of expert discovery at a date and time to be agreed upon by Lead Counsel for the parties or established by the Court |
|-----------|---|--|

18. AMENDMENT OR MODIFICATION OF DISCOVERY

18.1 The discovery limitations and deadlines specified in this order shall not be amended or modified except by written agreement of Lead Counsel or order of the Court.

SIGNED AND ENTERED on this 15th day of November, 2016.

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HON. RICHARD B. GUILLE
GENESEE COUNTY CIRCUIT JUDGE

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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF GENESEE

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IN RE FLINT WATER LITIGATION

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DOCUMENT PRODUCTION PROTOCOL

All document productions by any party in this case shall be in electronic format.

To the greatest extent possible, all

1.1 IMAGE Files

a. Image File Formats – Black and white images

- i. These files are to be produced as Group IV, black and white (1 bit) single page tiffs with the file extension, .TIF.
- ii. Each image file is to be named with its corresponding production number.

b. Image File Formats – Color Images

- i. These files are to be produced as single page JPEGs with the file extension, .jpg. Each image file is to be named with its corresponding production number.

2.1 NATIVE FILES, EXTRACTED TEXT/OCR AND METADATA

c. NATIVE FILES

- i. When producing files in native format, the native files are to be named with the bates number assigned to the document and the confidentiality. For Example: Bates123456 – Confidential.XLSX
- ii. For each natively produced file, a tiff placeholder should be included. The place holder is to state, “This document has been produced in native format” and it should be endorsed with the confidentiality legend and bates number.

- iii. A text file must be provided for each native file. If extracted text is not available, the text file should include a machine generated OCR.
- iv. Both the image and text file must be named with the bates number.
- v. Files which cannot be accurately tiffed but must be produced must be produced in their native formats. Such files include video and audio recording and database files

d. PROPRIETARY FILES

- i. Proprietary file types or files that require a specific and non-standard application to open and review must be provided in their native format, if they cannot be accurately tiffed.

e. EXTRACTED TEXT/OCR

- i. Each produced document will have a single text file, named for the production number. The text files will delivered as multi-page ASCII. The location of the text file for a document will be captured in the TextFileLink field.
- ii. For native files, extracted text is requested.
- iii. For any redacted documents, a machine generated OCR text file from the redacted image is it to be provided.
- iv. For any hard copy materials, a machine generated OCR text file is it to be provided.

f. METADATA FIELDS

- i. Metadata fields associated with all electronically stored information (ESI) will be exchanged. The metadata associated with redacted documents may be withheld from the production upon agreement.
- ii. Metadata should be provided in a standard Concordance load file, also known as a .DAT file. The first line of the load file must include the field names. Each subsequent line will contain the fielded information for the document. All .DAT files produced in a matter should contain the same fields in a consistent order.

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G. LOAD FILE SPECIFICATIONS – DELIMITERS

i. The DAT file will use the following delimiters.

| <u>Delimiter</u> | <u>Character</u> | <u>Function</u> | <u>ASCII Code</u> |
|------------------|------------------|---|-------------------|
| , | Comma | The field delimiter separates the load file columns | 20 |
| " | Quote | The text qualifier. Marks the beginning and end of each load file field. | 254 |
| ␣ | Newline | The delimiter that marks the end of a line of extracted or long text. Concordance replaces all carriage returns or carriage return linefeed combinations with the newline code. | 174 |

ii. Sample Concordance (.DAT) load file:

```
␣ProdBegBates␣␣ProdEndBates␣␣ProdBegAttach␣␣ProdEndAttach␣
␣GP0000001␣␣GP0000002␣␣␣␣
␣GP0000003␣␣GP0000057␣␣␣␣
```

h. Load File Specification - PRODUCTION FIELDS

i. The following default fields will be provided for all documents in the production.

| <u>FIELD NAME</u> | <u>DESCRIPTION</u> | <u>Applies To</u> |
|-------------------|--|-------------------|
| ProdBegBates | Beginning bates number of all produced document | All Documents |
| ProdEndBates | Ending bates number of all produced documents | All Documents |
| ProdBegAttach | Beginning attachment number | All Documents |
| ProdEndAttach | Ending attachment number | All Documents |
| ProdParentBeg | Beginning Bates number of parent document unique to this document | All Documents |
| ProdAttachBeg | Beginning Bates number(s) for each attachments unique to this document | All Documents |

| FIELD NAME | DESCRIPTION | Applies To |
|-------------------|---|-------------------|
| Confidential | Confidentiality designation | All Documents |
| NativeFileLink | Production path to native file | All Documents |
| TextFileLink | Production path to extracted text or OCR file | All Documents |

i. Load File SPECIFICATIONS - Metadata Fields

- i. To the extent the information is available, the following metadata fields will be provided for the document types identified in the Applies To column.

| FIELD NAME | DESCRIPTION | Applies To |
|-------------------|---|-------------------|
| Author | Native file author | EDOC |
| File Name | Name of the application file | EDOC |
| DateCreated | Date file was created | EDOC |
| TimeCreated | Time file was created | EDOC |
| DateMod | Date file was last modified | EDOC |
| TimeLastMod | Time file was modified | EDOC |
| To | Recipient(s) | Email |
| From | Sender | Email |
| CC | Carbon copy recipient(s) | Email |
| BCC | Blind carbon copy recipient(s) | Email |
| Subject | Subject line of the email | Email |
| Date Sent | Email sent date | Email |
| TimeSent | Email sent time | Email |
| Date Rec | Email received date | Email |
| TimeRcvd | Email received time | Email |
| Custodian | Individual in possession of the document or Mailbox. | All Documents |
| Source | Physical location, computer or server from which the data was collected | All Document |
| DocType | Type of file (Word, Excel, email, etc) | All Documents |
| DocExt | File extension of document | All Documents |
| Native File Size | Size of file in bytes | All Documents |
| Hash Value | MD5 Hash Value | All Documents |

1.3 DELIVERY OF PRODUCTION

- j. Productions may be delivered either via encrypted physical media or via secure electronic download.

K. ALL DELIVERIES

- i. All file paths should be relative.
- ii. Data to be encrypted and the decryption key should be provided prior to the delivery of the physical media.
- iii. An electronic version of the cover letter should be included. The decryption key should not be contained in the cover letter accompanying the physical media.

L. PHYSICAL DELIVERY

- i. Productions that are delivered via physical media should be self-contained and not require that multiple discs or drives be combined after delivery.
- ii. The disc or drive should be clearly labeled with the following information:
 - Date of the production
 - Producing party
 - Production Regarding
 - Production Volume
 - Bates Range
 - Number of Records

M. ELECTRONIC DELIVERY

- i. Productions that are delivered via electronic format must be self-contained and not require that multiple volumes or downloads be combined in order to successfully load the data for review
- ii. The production should be announced via e-mail and made available for immediate download upon receipt of the e-mail.
- iii. Delivery should be via a secure file transfer (SFT) system. Productions made via insecure file transfer sites or sent via email may be rejected.

- iv. Electronic deliveries must remain downloadable for thirty days after the production date or until the production has been downloaded and confirmed to be complete.

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