

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re FLINT WATER CASES

Civil Action No. 5:16-cv-10444-JEL-
MKM (consolidated)

Hon. Judith E. Levy
Mag. Mona K. Majzoub

Elnora Carthan et al. v. Governor
Rick Snyder et al.

Civil Action No. 5:16-cv-10444-JEL-
MKM

VEOLIA WATER NORTH AMERICA OPERATING SERVICES, LLC,
VEOLIA NORTH AMERICA, LLC, AND VEOLIA NORTH AMERICA, INC.’s
RESPONSE TO CLASS PLAINTIFFS’ NOTICE REGARDING DEADLINE
FOR PROPOSAL OF CLASS DEFINITIONS

On May 17, 2019, this court ordered Interim Class Counsel to “seek concurrence from defendants regarding the timeline for filing their revised class definitions” and that “[i]f an agreement cannot be reached by May 29, 2019, the Court will set the date for revised class definitions to be filed (Dkt. 860).¹ Instead, Class Plaintiffs have filed a seven page “notice” which fails to provide the court with

¹ On May 29, 2019, Class Plaintiffs filed a request for a one-week extension to June 7, 2019 “for parties to reach an agreed upon timeline” to submit revised class definitions. (Dkt. 867).

any timeline and is a procedural ploy to further delay revisions or amendments to the class definitions.

The in-chambers and on the record discussions with this Court on May 15, 2019 were clear—the VNA Defendants’ motion to strike was still pending and had merit; in direct response to this, Interim Class Counsel represented that they were in the process of revising class definitions and that new definitions would be provided shortly. In turn, the VNA Defendants withdrew their motion to strike and the Court issued its Order Regarding Matters Discussed at the May 15, 2019 Status Conference (Dkt. 860), ordering Class Plaintiffs to confer and provide a timeline for their “forthcoming” class definitions.

Now Class Plaintiffs allege a “miscommunication” during the May 15, 2019 status conference in an effort to change the past and reverse their representation to this Court that they will be revising the class definitions. They in turn argue that it is the defendants that “refused” to engage in a meaningful meet and confer by insisting on a timeline even though Class Plaintiffs have still failed to provide this Court or any of the parties a proposed timeline.² These tactics and efforts to further delay amendments to the class definitions and relitigate their Court-ordered obligations based on a previously uncommunicated “miscommunication” should be rejected.

² Indeed, Class Plaintiffs assert in their Notice that “there is no need to set a deadline for amending the class definition at this time.” (Dkt. 878 at 2).

Class Plaintiffs should either provide their revised class definitions by June 24, 2019 or the motion to strike should be reinstated and decided without further delay. By this date, written discovery will be well underway. This will also give the defendants a one-week opportunity from receipt of the revised class definitions to reframe any remaining written discovery to be served on the *Carthan* plaintiffs. In turn, this will allow a 60-day opportunity for the discovery responses to be drafted and sent by the *Carthan* plaintiffs, received and reviewed by the defendants, any objections dealt with, and the refiling of any motions to strike before the start of testimonial depositions in September.

Respectfully submitted,

CAMPBELL CONROY & O'NEIL, P.C.

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Dated: June 11, 2019

CERTIFICATE OF SERVICE

I, Alaina N. Devine, one of the counsel of record for the defendants Veolia Water North America Operating Services, LLC, Veolia North America, LLC, and Veolia North America, Inc., certify that on June 11, 2019, I caused the within response to be filed electronically with the Clerk of Courts through the Court's ECF filing system which will cause it to be served automatically by electronic means to counsel of record for all parties.

/s/ Alaina N. Devine

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