

EXHIBIT A

**IN THE STATE OF MICHIGAN
COURT OF CLAIMS**

BRENDA BROWN, KERI WEBBER, MICHAEL WEBBER,
STEPHANIE WEBBER and 'VW', a minor, by and through her
next friends KERI WEBBER AND MICHAEL WEBBER,

Plaintiffs,

Civil Action No.

GOVERNOR RICK SNYDER; in his individual and official
capacities, and the STATE OF MICHIGAN for prospective relief
only; MICHIGAN DEPARTMENT OF ENVIRONMENTAL
QUALITY; MICHIGAN DEPARTMENT OF HEALTH AND
HUMAN SERVICES; DANIEL WYANT; NICK LYON; ANDY
DILLON; LIANE SHEKTER-SMITH; ADAM ROSENTHAL;
STEPHEN BUSCH; PATRICK COOK; MICHAEL PRYSBY;
BRADLEY WURFEL; JEFF WRIGHT; EDWARD KURTZ;
DARNELL EARLEY; GERALD AMBROSE; EDEN WELLS;
NANCY PEELER; and ROBERT SCOTT, in their individual and
official capacities, jointly and severally,

17-000291 -MZ
Stephens
COMPLAINT

Defendants,

2017 NOV -2 AM 11:2
RECORDED

**COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF and MONEY
DAMAGES**

INTRODUCTORY STATEMENT

1. This action is for personal injuries and property damages arising out Defendants' unlawful conduct – which from April 25, 2014 to the present have experienced and will continue to experience serious personal injury and property damage caused by Defendants' deliberate, reckless, and negligent misconduct. Defendants caused a public health crisis by exposing Plaintiffs to contaminated water. Defendants also exacerbated the crisis by concealing and misrepresenting its scope, failing to take effective remedial action to eliminate it, and then lying about it to cover up their misconduct.

2. Defendants DANIEL WYANT; NICK LYON; ANDY DILLON; LIANE SHEKTER-SMITH; ADAM ROSENTHAL; STEPHEN BUSCH; PATRICK COOK; MICHAEL

PRYSBY; BRADLEY WURFEL; JEFF WRIGHT; EDWARD KURTZ; DARNELL EARLEY; GERALD AMBROSE; EDEN WELLS; NANCY PEELER; and ROBERT SCOTT shall be referred to as the "State Officials Defendants".

**Summary of the Constitutional and Civil Rights Violations and Injuries
Caused by the Defendants:**

3. Defendants deliberately deprived Plaintiffs of the rights and guarantees secured by Article 1, § 17 to the Michigan Constitution. Defendants deprived Plaintiffs of life, liberty, and property without due process of law, as they knowingly took from Plaintiffs safe drinking water, and replaced it with what they knew to be a highly toxic alternative, solely for fiscal purposes.

4. Moreover, Defendants denied Plaintiffs their constitutional right to fair and just treatment during executive investigations as evidenced by the falsifications, deliberate delays, and deceptive communications from State Officials; who deliberately denied the enormous known risks facing individuals.

5. The evidence of the denial of a fair and just treatment as required by Article 1, Section 17 of the Michigan Constitution, is manifest, in that State officials engaged in an unconscionable and/or deliberately indifferent fraud against Plaintiffs pursuant to customs, policies, and/or practices of Defendant State of Michigan, to wit: Plaintiffs were led to believe by the State, acting through the Michigan Department of Environmental Quality, the Michigan Department of Health and Human Services, and/or the Governor's office, and/or the Flint Emergency Managers Darnell Earley, and Jerry Ambrose, and other State officials acting in their official capacities, that the Flint River water was safe to drink and to use for cooking, bathing, and other personal uses, at a time when these State officials knew the water was in fact not safe.

JURISDICTION AND VENUE

6. The Michigan Court of Claims has personal jurisdiction over the Defendants herein, because MDEQ and MDHHS are agencies of the State of Michigan, the Flint Emergency Managers Earley, and Ambrose, were at all relevant times hereto official agents/policymakers for of the State of Michigan, and Defendant Snyder is an official policymaker for Defendant State.

7. The Michigan Court of Claims also has original jurisdiction over this matter pursuant to MCL § 600.6419, *et seq.*, because the claims herein are brought against the State, its departments, and officers all acting in their official capacities, all within the meaning of MCL § 600.6419(7).

8. Venue is proper in the Court of Claims pursuant to MCL § 600.6419, *et seq.*

9. Plaintiffs filed Notice within six months of the accrual of Plaintiffs' claim, and this Complaint satisfies all timeliness requirements of MCL §§ 600.6431 and 600.6452.

PARTIES

A. Plaintiffs

10. Plaintiffs have at all times relevant been residents of Flint, Michigan and citizens of the State of Michigan who have suffered personal injuries as a result of exposure to the City of Flint's drinking water, and/or property owners who have had property located in Flint damaged from exposure to the City of Flint's drinking water, and/or have suffered or continue to suffer economic harm caused by the City of Flint's drinking water.

11. As a result of Defendants' actions, Plaintiffs have suffered personal injuries including, but not necessarily limited to brain and/or developmental injuries including (without limitation) lead poisoning, cognitive deficits, hair loss, skin rashes, digestive and other organ problems, scarring, stroke, high blood pressure, loss of vision, asthma, infections, physical pain and

suffering, legionella, mental anguish, fright and shock, denial of social pleasures and enjoyments, embarrassment, humiliation and mortification.

12. Plaintiffs have also suffered property damage in the form of corroded pipes, service lines, and appliances in the home, and economic loss in reduced property value and water bills for unsafe water.

13. **Plaintiff Brenda Brown** resides at 2761 Chicago Blvd. Flint, MI 48503. She owns her home, which is serviced by water provided by the City of Flint. Brenda Brown suffered damages as a direct and proximate result of Defendants' conduct described herein.

14. **Plaintiff Keri Webber, Michael Webber, Stephanie Webber and minor VW** resides at 4208 Ogema Avenue Flint, MI 48507, which is owned by the family and which is serviced by water provided by the City of Flint. The home tested positive for lead contamination. The Webber family suffered damages as a direct and proximate result of Defendants' conduct described herein.

B. Defendants

15. All individual Defendants are sued in their individual and/or official capacities as indicated below.

16. Defendant Rick Snyder is the Governor of the State of Michigan ("Governor") and is vested with executive power pursuant to Art. V, Section 1 of the Michigan Constitution. The Governor is responsible for the management of state government for the health and welfare of its citizens and residents and is sued by Plaintiffs in both his individual capacity for compensation for the Plaintiffs, insofar as his deliberate conduct constituted an abuse and/or misuse of his authority, and, in his official capacity, for prospective equitable relief to correct the harm caused and prolonged by state government and to prevent future injury. The Governor is sued in his individual capacity

for the injuries he caused to Plaintiffs resulting from his deliberately indifferent deprivation of Plaintiffs' constitutional and civil rights.

17. Defendant State of Michigan ("the State") operates its Department of Environmental Quality ("MDEQ"), which is the state department primarily responsible for the environmental safety and health of Michigan citizens and residents. The State is sued for injunctive and/or prospective relief, because, acting through MDEQ and its employees, it caused the public health crisis at issue in this case, concealed the harm that it caused and has exacerbated and prolonged the injuries to Plaintiffs by failing to effectively remediate the harm it caused and concealed.

18. Daniel Wyant ("Wyant") was Director of MDEQ and is sued by Plaintiffs in his individual capacity because he participated in the decisions that deliberately created, increased and prolonged the public health crisis at issue in this case and participated in the concealment of the harm.

19. Andy Dillon ("Dillon") was Treasurer for the State of Michigan and is sued by Plaintiffs in his individual capacity because he caused harm to Plaintiffs when they developed an interim water delivery plan in June 2013 which favored the predominately white Genesee County water users and discriminated against the water users in Flint, a predominantly African American community.

20. Nick Lyon ("Lyon") was Director of the Michigan Department of Health and Human Services ("MDHSS") and is sued by Plaintiffs in his individual capacity because he participated in the decisions that deliberately created, increased and prolonged the public health crisis at issue in this case and participated in the concealment of the harm his department caused Plaintiffs.

21. Liane Shekter-Smith ("Smith") was Chief of the Office of Drinking Water and Municipal Assistance for MDEQ, holding that position until October 19, 2015 when she was

removed from her position. Smith is sued in her individual capacity because during her term as Chief of Drinking Water for MDEQ, she approved and participated in the decisions that deliberately created, increased and prolonged the public health crisis at issue in this case and participated in the concealment of the harm her department caused Plaintiffs.

22. Adam Rosenthal ("Rosenthal") was a Water Quality Analyst assigned to the Lansing District Office of the MDEQ. Rosenthal is sued in his individual capacity because, as Water Quality Analyst for MDEQ, he approved and participated in, the decisions that deliberately created, increased and prolonged the public health crisis at issue in this case and participated in the concealment of the harm his department caused Plaintiffs.

23. Stephen Busch ("Busch") was District Supervisor assigned to the Lansing District Office of the MDEQ. Busch is sued in his individual capacity because, as District Office Supervisor of MDEQ, he deliberately created, increased and prolonged the public health crisis at issue in this case and participated in the concealment of the harm his department caused Plaintiffs.

24. Patrick Cook ("Cook") was at all relevant times a Water Treatment Specialist assigned to the Lansing Community Drinking Water Unit of the MDEQ. Cook is sued in his individual capacity because, as Water Treatment Specialist District of MDEQ, he approved of, and thereby participated in, the decisions that deliberately created, increased and prolonged the public health crisis at issue in this case and participated in the concealment of the harm his department caused Plaintiffs.

25. Michael Prysby ("Prysby") was an Engineer assigned to District 11 (Genesee County) of the MDEQ. Prysby is sued in his individual capacity because, as Engineer assigned to District 11, he approved of, and thereby participated in the decisions that deliberately created,

increased and prolonged the public health crisis at issue in this case and participated in the concealment of harm his department caused Plaintiffs.

26. Bradley Wurfel ("Wurfel") was the Director of Communications for MDEQ. Wurfel is sued in his individual capacity because, as Director of Communications for MDEQ, he was responsible for the deliberately misleading and inaccurate communications that increased and prolonged the public health crisis at issue in this case and for making false statements and providing false assurances which caused harm to Plaintiffs.

27. Edward Kurtz ("Kurtz") was the Emergency Manager of Flint appointed by the Governor in August 2012 and served in this capacity until July 2013. Kurtz is sued in his individual capacity because, during his term as Emergency Manager of Flint, he deliberately created, increased and prolonged the public health crisis at issue in this case and participated in the concealment of the harm he caused Plaintiffs. Kurtz is also sued because he conspired with other Defendants to deprive Plaintiffs of their civil and constitutional rights and participated in or aided and/or abetted others to violate Plaintiffs' rights to full and equal enjoyment of public services as guaranteed under the ELCRA and the Equal Protection Clause of the 14th Amendment, as well as the 13th Amendment of the United States Constitution.

28. Darnell Earley ("Earley") was the Emergency Manager of the City of Flint appointed by the Governor on November 1, 2013 and served in this capacity until January 12, 2015. Earley is sued in his individual capacity because, during his term as Emergency Manager of Flint, he deliberately created, increased and prolonged the public health crisis at issue in this case and participated in the concealment of the harm he caused Plaintiffs. Earley is also sued because he conspired with other Defendants to deprive Plaintiffs of their civil and constitutional rights and participated in and/or aided and abetted others to violate Plaintiffs' rights to full and equal enjoyment

of public services as guaranteed under the ELCRA and the Equal Protection Clause of the 14th Amendment, as well as the 13th Amendment of the United States Constitution.

29. Gerald Ambrose (“Ambrose”) was the Emergency Manager of the City of Flint appointed by the Governor on January 13, 2015 and served in this capacity until April 28, 2015. Ambrose is sued in his individual capacity because, during his term as Emergency Manager of Flint, he deliberately increased and prolonged the public health crisis at issue in this case and participated in the concealment of the harm he caused Plaintiffs. Ambrose is also sued because he conspired with other Defendants to deprive Plaintiffs of their civil and constitutional rights and participated in and/or aided and abetted others to violate Plaintiffs’ rights to full and equal enjoyment of public services as guaranteed under the ELCRA and the Equal Protection Clause of the 14th Amendment, as well as the 13th Amendment of the United States Constitution.

30. Defendants Kurtz, Earley and Ambrose as Emergency Managers, acted in both their individual capacities and as agents of the State of Michigan, and their official capacities as policy makers for City of Flint within the meaning of *Monell*, and as such their actions constituted customs, policies and/or practices of City of Flint.

31. Defendant Eden Wells (“Wells”), was at all relevant times Chief Medical Executive within the Population Health and Community Services Department of the MDHHS and was acting within the scope of her employment and/or authority under color of law. She is sued herein in her official and individual capacities. Wells participated in, directed, and/or oversaw the department’s efforts to hide information to save face, and to obstruct the efforts of outside researchers. Further, Wells knew as early as 2014 of problems with lead and legionella contamination in Flint’s water and instead of fulfilling her duty to protect and notify the public, she participated in hiding this information. Defendant Wells violated clearly established constitutional rights of Plaintiffs,

including but not limited to the rights to bodily integrity and to be free from state created danger. Defendant Wells' actions constitute gross negligence, as she had a substantial lack of concern and/or willful disregard for whether an injury resulted to Plaintiffs.

32. Defendant Nancy Peeler ("Peeler") was at all relevant times a MDHHS employee in charge of its childhood lead poisoning prevention program, acting within the scope of her employment and/or authority under color of law. She is sued herein in her official and individual capacities. She participated in, directed, and/or oversaw the department's efforts to hide information to save face, and actively sought to obstruct and discredit the efforts of outside researchers. Even when her own department had data that verified outside evidence of a lead contamination problem, she continued trying to generate evidence to the contrary. Defendant Peeler violated clearly established constitutional rights of Plaintiffs, including but not limited to the rights to bodily integrity and to be free from state created danger. Defendant Peeler's actions constituted gross negligence, as she had a substantial lack of concern and/or willful disregard for whether an injury resulted to Plaintiffs.

33. Defendant Robert Scott ("Scott") was at all relevant times Data Manager for MDHHS's Healthy Homes and Lead Prevention Program, acting within the scope of his employment and/or authority under color of law. He is sued herein in his official and individual capacities. He participated in, directed, and/or oversaw the department's efforts to hide information to save face, and actively sought to obstruct and discredit the efforts of outside researchers. Even when his own department had data that verified outside evidence of a lead contamination problem, he continued trying to generate evidence to the contrary. He also served a key role in withholding and/or delaying disclosure of data that outside researchers needed to protect the people of Flint. Defendant Scott violated clearly established constitutional rights of Plaintiffs, including but not

limited to the rights to bodily integrity and to be free from state created danger. Defendant Scott's actions constitute gross negligence, as he had a substantial lack of concern and/or willful disregard for whether an injury resulted to Plaintiff.

STATEMENT OF FACTS

34. This case arises from the tragic and preventable poisoning of the City of Flint. The outrageous acts and omissions of the Defendants have caused immeasurable and irreparable harm to Plaintiffs.

A. Dangers From the Flint River Water Have Been Well-Known for Decades

35. The FWTP was constructed in 1917 to draw water from the Flint River as the source of Flint's drinking water for nearly 50 years until 1964.

36. As early as 1964, the U.S. Geological Survey noted high levels of chloride in the Flint River. Due to the concerns regarding the adequacy of the Flint River to provide safe drinking water, Flint evaluated alternatives for a new water supply, and ultimately switched providers. From 1964 to 2014, Flint water users received their water from Lake Huron via purchase from the Detroit Water and Sewerage Department ("DWSD"). This water did not require treatment through the FWTP.

37. During this half-century, Flint water users enjoyed safe, clean, fresh water in their homes, businesses, hospitals and other places of public services.

38. However, since approximately the 1990s, Flint and other local governmental entities had growing concerns over the cost of the DWSD water supply. Amidst these growing concerns, Flint and the other local governmental entities commissioned studies for alternative water supplies:

- a. A 2001 report by the Department of Natural Resources noted that certain businesses along the Flint River had permits to discharge runoff from industrial and mining activities as well as petroleum and gasoline cleanups.

- b. In 2004, a technical assessment of the Flint River raised concerns about using the river as a source of drinking water. One of the key points from the technical assessment, entitled “Source Water Assessment Report for the City of Flint Water Supply – Flint River Emergency Intake,” prepared by the U.S. Geological Survey, the MDEQ, and the Flint Water Utilities Department, was that the Flint River was a highly sensitive drinking water source that was susceptible to contamination.
- c. In 2006 and 2009, Flint and the local governmental entities completed additional studies for alternative water supplies. The 2009 study, prepared by Lockwood, Andrews & Newnam, P.C., Lockwood, Andrews & Newnam, Inc. and Leo A. Daly Company (collectively the “LAN Entities”) and others, evaluated two alternatives for water supply – continue to purchase from DWSD, or construct a new pipeline (later known as the Karegnondi Water Authority (“KWA”) pipeline) from Lake Huron.
- d. In 2011, Flint officials commissioned a study to determine if the Flint River could be safely used by the city as the primary source of drinking water. The “Analysis of the Flint River as a Permanent Supply for the City of Flint, July 2011” (“2011 Report”), prepared by Rowe Engineering and the LAN Entities, cautioned against the use of the Flint River water and the dormant FWTP. The report concluded that “water from the river can be treated to meet current regulations; however, additional treatment will be required than for Lake Huron Water. . . . Although water from the river can be treated to meet regulatory requirements, aesthetics of the finished water will be different than that from Lake Huron.” The study further concluded that such treatments to Flint River water could be done if improvements were made to the FWTP. However, if used as a water supply, the study noted that “a source water protection management plan should be developed to . . . identify potential sources of contamination”
- e. The LAN Entities also prepared an additional analysis, attached to the 2011 Report as an appendix, which detailed over \$69 million in improvements that would have to be made to bring the FWTP up to current standards. This additional analysis specifically projected costs for corrosion control chemicals that would be required to ensure the safety of water to be drawn from the Flint River.

39. Use of the Flint River as a primary drinking source was rejected in 2011.

B. Despite These Well-Known Dangers, Defendants Decided to Use Flint River Water as the Primary Water Source for the City of Flint

40. In August 2012, the Governor appointed Edward Kurtz as Flint’s Emergency Manager.

41. In November of 2012, Kurtz wrote to State of Michigan Treasurer Andy Dillon suggesting that Flint join the yet to be formed KWA due to projected cost savings over DWSD. This was pursuant to the Emergency Manager's mandate to cut costs, and consistent with political pressure from Genesee County Drain Commissioner Jeffrey Wright, who had encouraged the formation of the KWA in 2009.

42. Throughout 2012, DWSD presented to Kurtz, Wright, Dillon, Dayne Walling and the Governor compelling arguments, based on numerous studies, demonstrating that from a cost and water reliability standpoint, Flint should reject Wright's pressure to join KWA and continue to receive water from DWSD. Most of the discourse about Flint joining KWA or continuing with DWSD, included Wright who consistently raised arguments designed to persuade Kurtz, Dillon and the Governor that the DWSD cost studies were wrong.

43. In late 2012, Dillon, reacting to Wright's contention that the DWSD cost studies were wrong, requested the independent engineering firm of Tucker, Young, Jackson and Tull ("TYJT") to assess whether it would be cost-effective for Flint to switch from water supplied by DWSD and join the KWA water delivery system. In February 2013, TYJT concluded that it would be more cost-effective for Flint on both a short term and long term basis to continue to be supplied with water from DWSD.

44. On March 27, 2013, MDEQ officials, sensing that Kurtz, Wright, Walling and Dillon were pushing the Governor to approve Flint joining the KWA, acknowledged that the decision to switch the water source for Flint was not based on a scientific assessment of the suitability of the Flint River water. In their own words, "As you might guess we are in a situation with Emergency Financial Managers so it's entirely possible that they will be making decisions relative to cost."

45. On March 28, 2013, in an email from Dillon to Governor Rick Snyder, with copies to numerous other Treasury officials and Wyant, Dillon recommended that he authorize KWA going forward, even though the independent firm he hired to perform a cost evaluation said staying with DWSD made the most economic sense. Dillon wrote the Governor, explaining that, “based upon today’s presentations to the DEQ by the City of Flint, KWA and the engineering firm (Tucker Young) Treasury hired to vet the options as to whether Flint should stay with DWSD or join KWA, I am recommending we support the City of Flint’s decision to join KWA: The City’s Emergency Manager, Mayor, and City Council all support this decision. Dan Wyant likewise concurs and will confirm via email.” Dennis Muchmore, Governor Snyder’s Chief of Staff, confirmed in a subsequent email that it was Dillon who made “the ultimate decision” to switch Flint water from the DWSD to the KWA.

46. On April 16, 2013, Governor Snyder, in what is now understood to be a non-fiscal decision, authorized Kurtz to enter into a contractual relationship with KWA for the purpose of supplying water to Flint beginning in mid-year 2016.

47. Governor Snyder participated in discussions between his appointed Emergency Manager of Flint, Mr. Kurtz, and his appointed Emergency Manager of Detroit, Kevin Orr. At the time the Governor authorized Kurtz to contractually bind Flint to the KWA project, the Governor and State officials knew that the Flint River would be used as an interim source.

48. In June 2013, Dillon, Kurtz, Wright, and Walling developed an interim plan (“Interim Plan”) to use the Flint River water before KWA became operational. The Interim Plan would cover 2.5 years (April 25, 2014 until approximately October, 2016).

49. Dillon, Kurtz, Wright and Walling knew that in 2011 the Flint River was professionally evaluated and rejected as a drinking source and that upgrades for the FWTP would cost millions.

50. The Governor, in a timeline prepared by his office, confirmed that in June 2013, he knew that Flint River water would be used as an interim source of water.

51. In May 2013, Emergency Manager Kurtz announced his resignation effective July 2013. The Governor reappointed Michael Brown as Flint's Emergency Manager.

52. In September 2013, after Emergency Manager Brown resigned, Darnell Earley was appointed by the Governor as Flint's Emergency Manager.

53. Michael Glasgow, the City of Flint's water treatment plant's laboratory and water quality supervisor informed the MDEQ on April 16, 2014, that the FWTP was not fit to begin operations and that "management" was not listening to him because "they seem to have their own agenda." Glasgow continued, "Glasgow said on April 16, 2014 that "... it looks as if we will be starting the plant up tomorrow and are being pushed to start distributing water as soon as possible I would like to make sure we are monitoring, reporting and meeting requirements before I give the OK to start distributing water." The next day, Glasgow wrote Prysby and Busch of the MDEQ, that "..... I have people above me making plans to distribute water ASAP. I was reluctant before, but after looking at the monitoring schedule and our current staffing, I do not anticipate giving the OK to begin sending water out anytime soon. If water is distributed from this plant in the next couple of weeks, it will be against my direction. I need time to adequately train additional staff and to update our monitoring plans before I will feel we are ready. I will reiterate this to management above me, but they seem to have their own agenda."

54. Beginning in June 2013 and continuing through April 25, 2014, the State created a dangerous public health crisis for the users of Flint tap water when it and Kurtz and Earley ordered and set in motion the use of highly corrosive and toxic Flint River water knowing that the FWTP was not ready.

55. For at least a year prior thereto, the State knew that using the Flint River water was dangerous and could cause serious public health issues.

C. The LAN Entities Failed to Meet Their Duties of Care and Competence as Design Engineers for the Flint Water Treatment Plant

56. On June 10, 2013, the LAN Entities submitted a proposal to Flint for upgrading the FWTP entitled “Flint Water Treatment Plant Rehabilitation – Phase II.” The proposal was to make “improvements . . . intended to help the City operate[] the plant on a full time basis using the Flint River.” The proposal was signed by J. Warren Green, Professional Engineer (Project Director) and Samir F. Matta, Professional Engineer (Senior Project Manager).

57. The LAN Entities claimed in their proposal that their “staff has the knowledge, expertise and the technical professionals to handle all aspects of the projects. Our staff has firsthand knowledge of the [FWTP]”

58. The proposal included the following relevant sections:

- a. A “Scope of Services” section that stated the “project involves the evaluation and upgrade of the Flint Water Plant to provide continuous water supply service to the City of Flint (Flint) and its customers.” The upgrades and improvements would allow the use of the Flint River as a water supply.
- b. A “Standards of Performance” section where the LAN Entities “agree[d] to exercise independent judgment and to perform its duties under this contract in accordance with sound professional practices.” As part of the proposal, it was understood that Flint was relying upon the professional reputation, experience, certification, and ability of the LAN Entities.

59. In or around June 2013, Flint formally retained the LAN Entities as the design engineer for improvements and upgrades to the FWTP for the treatment of new water sources, including both the Flint River and the KWA pipeline. In deciding to proceed with the transition to the Flint River, the City of Flint noted the LAN Entities' "extensive experience in this field," and relied upon the LAN Entities' identification of the "engineering, procurement, and construction needs" for the project. Although the City recognized that water from the Flint River "would be more difficult to treat," the City concluded, based on LAN's recommendations, that the Flint River was "viable as a source" of the City's water. LAN continued to advise the City with respect to its transition to the Flint River through 2015, and ultimately was paid more than \$3.8 million for its engineering services.

60. Upon information and belief, there were no bids submitted by the LAN Entities or any other firm for this work, nor were any other firms considered for this work. The contract was awarded without competitive bidding.

61. On June 29, 2013, LAN met with representatives of Flint, representatives of the Genesee County Drain Commissioners Office and the MDEQ to discuss:

- a. Using the Flint River as a water source;
- b. The ability to perform the necessary upgrades to the FWTP;
- c. The ability to perform quality control;
- d. The ability for Flint to provide water to Genesee County;
- e. The ability to meet an April or May 2014 timeline; and
- f. Developing a cost analysis.

62. According to incomplete meeting minutes, “the conversation was guided with focus on engineering, regulatory, and quality aspects . . .” of the items previously referenced, and the following determinations were made:

- a. The Flint River would be more difficult to treat, but was viable as a source;
- b. It was possible to engineer and construct the upgrades needed for the treatment process;
- c. It was possible to perform quality control “with support from LAN engineering which works with several water systems around the state, quality control could be addressed[;]”
- d. FWTP did not have the capacity to treat and distribute sufficient water to meet the needs of Flint and Genesee County;
- e. There were many obstacles to overcome, but completion by the April or May 2014 timeline was reachable; and
- f. The next steps were for the LAN Entities to present Flint with a proposal that would include engineering, procurement, and construction needs for the project along with cost estimates.

63. Since 1965, the FWTP served as a secondary and backup water supply system to the DWSD. Typically, a secondary supply for a public water system would be needed only during emergency situations, and is normally designed for short-term operation such as providing the average daily demand for only a few days.

64. Upon information and belief, the FWTP was previously upgraded in or around 2004 in order to allow it to operate for an extended short-term period (i.e., approximately 6 weeks) because of a perceived high risk that the DWSD supply would fail and remain out of service for an extended duration.

65. Due to the aforementioned 2013 agreement, the FWTP needed upgrading to operate on a full-time basis, otherwise it would be unable to provide the citizens of Flint with sufficient quantities of water.

66. In April of 2014, the LAN Entities, Flint and MDEQ officials addressed and discussed optimization for lead, and they decided that having more data was advisable before implementing an optimization method.

67. On April 9, 2014, the City received the necessary permits from MDEQ to draw Flint River water for distribution as the supply source for its water distribution system during the multi-year transition to the new KWA facility.

68. Despite receiving these permits, the Flint water system was not prepared for the switch to Flint River water. The Flint River was contaminated with rock-salt chlorides washed into the river from road surfaces over the course of many harsh Michigan winters. The level of chlorides in the Flint River was eight times the levels provided in DWSD water. Chlorides are highly corrosive, and must be neutralized with anticorrosive agents, such as phosphates, before entering public water systems. It is well known that corrosive water that is not properly treated results in the corrosion of pipes, such that the metals in the pipes, including lead, will leach into drinking water.

69. The LAN Entities knew, if not recommended, that the FWTP would begin drawing water from the Flint River later that month that would not be treated with anti-corrosive measures. Moreover, the potential consequences in endangering the public health as a result of not using anti-corrosive treatments when using water from the Flint River as the primary source were or should have been well-known and foreseeable to the LAN Entities, engineering firms that, according to their website, were a “national leader in the heavy civil infrastructure engineering industry,” “one of the most respected engineering firms in the United States today,” and “a recognized leader in the industry with a rich history of serving a diverse group of heavy civil infrastructure clients across the country.”

70. From July of 2013 through April of 2014, the LAN Entities provided professional engineering services associated with the switch from the DWSD to the FWTP, but failed to meet their duty of care and competence. The LAN Entities were responsible for providing engineering services to ensure that the FWTP was equipped to treat water from each of its new sources. The LAN Entities' actions facilitated the transfer of Flint's water source to river water without proper corrosion control treatment. The improvement and upgrade plans to the FWTP were approved by MDEQ in April of 2014 pursuant to plans and specifications signed and sealed by the LAN Entities. Further, the LAN Entities, as Flint's outside contractor, had a duty to recognize the need for corrosion control and advise that it should be implemented. Yet, incredibly, at the time of the switch to Flint River water, no phosphates were being added to the water supply. In fact, nothing whatsoever was being done to account for the corrosive nature of the Flint River water. Moreover, the LAN Entities did not require water quality standards to be set for the Flint River water that would be delivered to Flint's residents and property.

D. Numerous Signs of the Public Health Crisis Caused By the Contaminated Water Were Evident Within Weeks of the Switch

71. On April 25, 2014, Flint officially began using the Flint River as its primary water source, despite the fact that the proper preparations had not been made and Glasgow had warned that the FWTP was not ready.

72. Within weeks of switching water sources, complaints began to pour in from residents regarding the smell, taste, and color of the drinking water.

73. In June 2014, citizen complaints about contaminated water continued without the State doing anything to address these complaints. Many Flint water users reported that the water was making them ill.

74. On August 14, 2014, Flint's water tested above legal limits for total coliform and E. coli bacteria. The City issued boil water advisories on August 16, 2014 and September 5, 2014 in response.

75. To address the bacteria problem, the water was treated with additional chlorine. However, as has been well known for decades, in corroded pipes, chlorine preferentially reacts with the bare metal instead of attacking solely bacteria. The addition of substantial amounts of chlorine to a water supply was thus ineffective in treating bacteria – so more chlorine was added.

76. The use of chlorine to disinfect water produced various disinfection byproducts, including trihalomethanes (often referred to as “Total Trihalomethanes” or “TTHM”). When bare pipes are not protected with a corrosion control protocol, more chlorine yields more TTHM.

77. Immediately after the discovery of Flint's bacterial problems, it was apparent that Flint's TTHM levels were high. This should have been a red flag that the steel in the pipes had been laid bare by the high salt concentrations the water pumped from the Flint River.

78. As officials were beginning to assess the extent of Flint's TTHM problems, another problem emerged in the summer of 2014 – the Michigan Department of Health and Human Services (MDHHS) reported an outbreak of Legionnaires' disease – another red flag.

79. Legionnaires' disease is a severe form of pneumonia which, when treated early enough, has a mortality rate of 20%; if left untreated, the rate rises to 80%. Infection in humans occurs when water droplets contaminated with *legionella* bacteria are inhaled or when water-containing *legionella* enters the trachea. Extensive studies of *legionella* have established that the pathogen enters the water supply when the “bio-film” protecting pipes is stripped away – which is exactly what happened when the River's corrosive water entered the City's pipes.

80. In addition to a rise in the reported incidence of Legionnaires' disease, MDHHS first noted another potential problem related to Flint's water in September 2014 – lead poisoning rates “were higher than usual for children under age 16 living in the City of Flint during the months of July, August and September, 2014.”

81. As early as October 1, 2014, it was known that one of the causes of the bacterial contamination was the existence of iron pipes in the City's water distribution system.

82. Most of Flint's 550 miles of water mains are now over 75 years old and constructed of cast iron piping. Cast iron pipe is subject to internal corrosion, called tuberculation, which causes buildup on the pipe interior, leading to water quality issues, reduced flow and pressures, and leakage. Tuberculation also encourages the development of biofilms, layers of bacteria that attach to the interior pipe wall.

83. On October 13, 2014, General Motors ceased the use of Flint River water at its engine plant because of fears that it would cause corrosion due to high levels of chloride.

84. On December 31, 2014, the first round of lead monitoring showed results exceeding the Lead and Copper Rule's action levels for lead, 15 parts per billion. Worse yet, these samples were not drawn from the highest risk homes as required by the Lead and Copper Rule.

85. On January 9, 2015, University of Michigan-Flint water tests revealed high lead levels in two locations on campus, causing the university to turn off certain water fountains.

86. In addition to these events, the City conducted six (6) sampling events on the corrosivity of the “treated” drinking water that occurred either before or concurrently with the creation of reports by the LAN and Veolia Entities. The sampling events were in May, 2014, August 2014, October 2014, and February 2015, May 2015, and August 2015. The sampling results

all showed that the drinking water was very corrosive, and yet none of the reports produced by the LAN and Veolia Entities mentioned these sampling results.

E. The LAN and Veolia Entities Were Asked to Evaluate the Problems, But Failed to Do So Properly

87. In November of 2014, the LAN Entities were on actual notice of the need to assess the factors contributing to high TTHM levels following the water source change because the LAN Entities were engaged to evaluate this issue by Flint and provide a report of its findings, which they did in August of 2015.

88. The LAN Entities issued a 20-page Operational Evaluation Report on November 26, 2014, intended to address compliance with EPA and MDEQ operations and regulations. The LAN Entities entirely failed to address the hazard of lead associated with the corrosive water flowing through the pipes, at least half of which were made of lead.

89. Veolia North America, LLC, Veolia North America, Inc, and Veolia Water North America Operating Services, LLC (collectively the “Veolia Entities”) submitted to Flint their “Response to Invitation to Bid for Water Quality Consultant,” Proposal No. 15-573. The Veolia Entities proposed “to address the immediate reliability and operational needs” of Flint’s water system.

90. Flint had requested engineering services:

- a. To review and evaluate “the City’s water treatment process . . . and procedures to maintain and improve water quality”;
- b. To develop and report with recommendations “to maintain compliance with both State of Michigan and federal agencies”; and
- c. To assist the City in implementing the recommendations.

91. The Veolia Entities, however, responded that “addressing the fundamental issues concerning water quality compliance and operational reliability is much more complex than the

recommendations study and advisory services outlined [in City of Flint's request]." The Veolia Entities proposed to respond to Flint's requested scope of work by:

- a. Calibrating "daily water quality samples with the City's hydraulic model";
- b. Refining "the operational strategies for the plant and distribution system";
- c. Coordinating "daily efforts across plant, operations and maintenance staff"; and
- d. Alleviating "continued concerns from the public communications process."

92. In February of 2015, the Veolia Entities were hired through a resolution that incorporated a standard of performance clause, which stated that "the City is relying upon the professional reputation, experience, certification, and ability of [Veolia]."

93. The Veolia Entities' task was to review Flint's public water system, including treatment processes, maintenance procedures, and actions taken. As water treatment professionals, the Veolia Entities had an opportunity to catch what the LAN Entities had missed or refused to warn about – corrosive water was being pumped through lead pipes into the homes of Flint residents without corrosion control.

94. On February 10, 2015, the Veolia Entities and the City issued a joint press release to the community at large, indicating that Veolia was an "urban water expert" in "handling challenging river water sources" and that it would be evaluating all of the City's water treatment processes.

95. The press release contained no limitation on the Veolia Entities' scope of work. David Gadis, the Vice President of Veolia North America's Municipal & Commercial Business stated, "We understand the frustration and urgency in Flint[.] We are honored to support your community with our technical expertise so that together we can ensure water quality for the people of the city of Flint." He continued, "We have extensive experience handling challenging river water

sources, reducing leaks and contaminants and in managing discolored water.” Based on these representations, the people of Flint had every reason to rely on the Veolia Entities’ subsequent representations of safety.

96. On February 12, 2015, Rob Nicholas, Veolia’s Vice President stated: “We’re going to look at the numbers, we’re going to look at the plant, we’re going to decide how the equipment’s functioning, look at the raw water, look at the finished water, decide how it’s getting through the pipe to the house, and from that, decide how to fix each of those problems as we go forward.”

97. Despite its representations that it would conduct a thorough, all-encompassing review of the Flint Water system, it took Veolia only 6 days to issue an interim report on its findings, which it presented to a committee of Flint’s City Council on February 18, 2015. Per the interim report, the only issue not in the Veolia Entities’ scope of study was “why the change from [Lake Huron water via the Detroit system pipeline to Flint River water] or the history of the utility.”

98. In the interim report, the Veolia Entities’ indicated that Flint’s water was “in compliance with drinking water standards.” It also noted that “[s]afe [equals] compliance with state and federal standards and required testing.” The Veolia Entities effectively declared publicly that Flint’s water was safe.

99. The Veolia Entities’ interim report also noted that the discoloration in Flint’s water “raises questions,” but “[d]oesn’t mean the water is unsafe.” It noted that among the Veolia Entities’ “next steps” were to “carry out more detailed study of initial findings” and “[m]ake recommendations for improving water quality.”

100. In response to potential questions about “[m]edical problems,” the Veolia Entities’ interim report dismissively claimed that “[s]ome people may be sensitive to any water.”

101. Veolia issued its final “Water Quality Report” dated March 12, 2015.

102. In the final report, the Veolia Entities noted that it had conducted a “160-hour assessment of the water treatment plant, distribution system, customer services and communication programs, and capital plans and annual budget.” The final report claims that “a review of water quality records for the time period under our study indicates compliance with State and Federal water quality regulations.”

103. The final report states that “the public has also expressed its frustration of discolored and hard water. Those aesthetic issues have understandably increased the level of concern about the safety of the water. The review of the water quality records during the time of Veolia’s study shows the water to be in compliance with State and Federal regulations, and based on those standards, the water is considered to meet drinking water requirements.”

104. Specifically addressing the lack of corrosion control, the final report notes that “[m]any people are frustrated and naturally concerned by the discoloration of the water with what primarily appears to be iron from the old unlined cast iron pipes. The water system could add a polyphosphate to the water as a way to minimize the amount of discolored water. Polyphosphate addition will not make discolored water issues go away. The system has been experiencing a tremendous number of water line breaks the last two winters. Just last week there were more than 14 in one day. Any break, work on broken valves or hydrant flushing will change the flow of water and potentially cause temporary discoloration.”

105. Therefore, in addition to missing the connection between the lack of corrosion control and lead contamination, the Veolia Entities made a permissive “could” suggestion aimed only at reducing aesthetic deficiencies while suggesting that Flint’s drinking water met all applicable requirements and was safe to drink.

106. In fact, not only did the report fail to discuss lead corrosion, the use of polyphosphate, as suggested, only deals with iron corrosion and could worsen lead corrosion.

107. As a result of the LAN and Veolia Entities' actions, the residents of Flint, including Plaintiffs, were exposed to much greater amounts of poisonous water, and for a much longer time.

F. The LAN and Veolia Entities Fail to Conduct a Root Cause Analysis

108. Both the LAN and Veolia Entities were hired to ensure Flint's water system was protective of human health and compliant with federal and state environmental statutes. In February 2015, the LAN Entities issued their report "Trihalomethane Formation Concern," and on March 12, 2015, the Veolia Entities issued their report, "Flint Michigan Water Quality Report." Critically absent from both reports was a root cause analysis of why the high TTHM levels existed. A root cause analysis is the standard process used by engineers to determine the origin, cause and interrelationship of events. It is a standard practice used by environmental, health, safety and infrastructure engineers whenever an adverse event occurs. Understanding why an event occurred is critical to developing effective recommendations for dealing with an event. It is important to note that a root cause analysis would not have required invasive testing, just consideration of the facts known to date and drawing a conclusion about their interrelationship. Had such an analysis been done, the consultants would have discovered the corrosion of the pipes, and the presence of lead and *legionella* in the water system.

109. The causal relationship of events leading to the high TTHM levels is not complex science. It is widely known in the scientific community that:

- Road salt from decades of deicing contaminates northern rivers such as the Flint River;
- Road salt contains chloride, which is highly corrosive to steel and lead pipes and that such pipes are used throughout Michigan and Flint;
- Chloride strips pipes of protective surfaces which frees *legionella* and lead;

- Urban rivers contain high levels of *E. coli*;
- While chlorine is effective in treating *E. coli*, it becomes far less effective when bare metal has been exposed because the chlorine preferentially reacts with the metal;
- The need to add excessive chlorine indicates that bare metal has been exposed, and that corrosion is occurring; and
- Excessive chlorination causes high TTHM levels.

110. The failure of the LAN and Veolia Entities to conduct a root cause analysis recognizing the corrosion's role in Flint's water problems is truly inexplicable because as detailed above all of these events had been highly publicized before they issued their report:

- The Flint River had been highly impacted by road salt for decades—the river had eight times more salt than water supplied by the DWSD;
- Lead and steel pipes are ubiquitous in the United States, Michigan and Flint;
- In the summer of 2014, Flint suffered one of the worst outbreaks of Legionnaires' disease in U.S. history;
- On October 14, 2014, as widely reported by the press the next day, GM stopped using the City's water because of corrosivity;
- On January 9, 2015, UM Flint shut its water fountains because lead exceed federal standards; and
- In February 2015, if not before, lead in drinking water in other locations also exceed the standards.

111. Any of these red flags, and indeed the general knowledge in the scientific community, should have alerted the LAN and Veolia Entities to the extensive corrosion and resultant release of lead and *legionella* in the City's drinking water system.

112. For example, it should have been obvious to the LAN and Veolia Entities – as professed experts on water quality and treatment issues – that a small river in an urban environment, such as the Flint River, would be contaminated by chlorides from salt used in road de-icing

operations during many Michigan winters. Indeed, in February 2004, the MDEQ, the U.S. Geological Survey (“USGS”), and the City completed an assessment of the Flint River as a possible source of drinking water and concluded that it had a very high susceptibility to potential contamination sources. Moreover, a simple comparison of the chloride levels in the Flint River with that provided by the DWSD, Flint’s prior water source, should have quickly alerted LAN and Veolia to potentially serious corrosion issues as the Flint River contains about eight-times more chloride than the DWSD-supplied water. The Flint River water also had an extremely high chloride-to-sulfate mass ratio (“CSMR”) of 1.6. Normally, a CSMR ratio of greater than 0.5 is a cause for serious concern. Had the LAN or Veolia Entities investigated the chloride-to-sulfate ratio in the Flint River, as would be expected of an engineer of ordinary diligence, they would have immediately had reason to believe that Flint’s CSMR posed serious corrosion risks.

113. The City’s inability to effectively treat *E. coli* with chlorine should have likewise alerted the LAN and Veolia Entities to the existence of corrosion. It is well established by governmental authorities and the scientific community that the inability to treat *E. coli* with chlorine is often caused by heavily corroded piping. According to a study published by the U.S. EPA, high *E. coli* concentrations are a product of corrosion, and the inability to treat *E. coli* with chlorine is caused by corroded pipes. Flint’s inability to treat *E. coli* with moderate amounts of chlorine – and the resulting high TTHM concentrations – should have placed the LAN and Veolia Entities on notice that Flint’s pipes were corroding and releasing lead and other materials into the drinking water supply. The uptick in reported cases of Legionnaires’ disease, reported during a press conference prior to the LAN and Veolia Entities’ retention, should have put both on notice that Flint’s water system exhibited signs of corrosion. *Legionella*, the bacteria that causes Legionnaires’ disease, grows on the film on the inside of pipes, which when stripped away by corrosion frees the

legionella into the drinking water system. Outbreaks of Legionnaires' disease are rare unless pipes have been stripped of their bio-film by warm, corrosive water—which is exactly what exists in the Flint River and water supply. Yet neither the LAN Entities nor the Veolia Entities drew a connection between the outbreak and the cause of the outbreak. Nor for that matter, did they make any recommendations to treat the water to prevent or abate an outbreak.

114. In addition, it was also very well known in the scientific community that pipes, especially old municipal water service lines, contain lead and that corroded pipes leach lead into the drinking water supply. “Lead has been a challenge and a bane for water suppliers since historical times . . . The numerous articles printed in leading scientific journals, in the United Kingdom and United States, in the late nineteenth century, documenting thousands of cases of lead poisoning caused by lead water pipes, have largely faded in the mist of history. These cases often resulted in death, paralysis, blindness, insanity, convulsions, miscarriages and still births.” Dr. Colin Hayes *et al.*, Best Practice Guide on the Control of Lead in Drinking Water, Foreword (Dr. Colin Hayes ed. 2010). As just one of hundreds of examples, a summer 2010 report by the Water Research Foundation stated: “Lead concentrations in tap water are strongly influenced by distribution system water chemistry. In response to changes in water chemistry, high lead concentrations can also be observed in systems with no previous history of a lead problem . . . Solubility and dissolution rates of corrosion products are affected by water chemistry parameters including pH, dissolved inorganic carbon, orthophosphate, and the concentration and type of disinfectant residual.” These are the exact conditions that existed in Flint’s water supply.

115. Finally, just the color of Flint’s water should have led any reasonable engineer to the conclusion that Flint’s pipes were dangerously corroded. The source of Flint’s water discoloration was rust, a product of steel and lead corrosion. The presence of rust in the water should

have alerted LAN and Veolia that Flint's water was corroding its pipes, and that there was thus a danger that lead was leaching into the Flint water system.

G. Despite the Numerous Signs of the Growing Crisis, Defendants Failed to Act, and Concealed Known Dangers From the Plaintiffs

116. In January 2015, State officials met to discuss the ongoing threat to public health posed by the *legionella* bacteria in the Flint River water. The Governor and his staff, the Genesee Co. Health Department, and the MDHHS had already been aware for at least three months of the ongoing public health threat to the people of Flint, including the threat of Legionnaires' disease resulting from the use of the Flint River water, yet they had done nothing. The public health crisis was not addressed in any serious and/or non-frivolous way.

117. On January 13, 2015, Earley resigned his position as Emergency Manager and the Governor replaced him with Gerald Ambrose.

118. On January 21, 2015, State officials ordered water coolers to be installed in State buildings operating in Flint. State officials were concerned that this action, if it became widely known by the public, would reveal their dishonesty because they had been advising the residents of Flint that it was safe to drink the tap water and at the same time arranging for alternative water sources for the State employees who were working in Flint.

119. On January 27, 2015, Flint was placed on notice that the Genesee County Health Department ("GCHD") believed there was an association between the spike in Legionnaires' disease reports and the onset of the use of Flint River water. Again, Defendants did nothing about the impending health catastrophe.

120. On January 29, 2015, State officials recognized that the public health crisis was caused by the corrosion of the entire infrastructure of the Flint water system. No action was

taken to warn the public of the health crisis or to correct the harm caused by the State's decision to switch from DWSD water to Flint River water.

121. On January 29, 2015, Sue McCormick, the Director of DWSD, offered Ambrose an opportunity to purchase DWSD water at attractive rates. DWSD's proposal included waiving the re-connection fee. This offer was rejected by Ambrose.

122. In January 2015, Flint home owner, LeeAnn Walters, called the EPA regarding water issues that she was experiencing at her Flint home. She informed the EPA that she and her family members were becoming physically ill from exposure to the Flint River water coming from her tap.

123. By the end of January 2015, the Governor's office was fully aware of the public health emergency caused by the rise in *legionella* bacteria found in the Flint River and launched a cover-up of the public health crisis.

124. On February 1, 2015, the Governor was fully informed of the health crisis in Flint. Given the months of complaints from Flint water users that the water was discolored, foul smelling/tasting and making them visibly sick, the Governor knew that there was an imminent threat to the people of Flint. Yet, neither the Governor, nor State and local public officials, took corrective action.

125. On February 17, 2015, Flint water users staged public demonstrations demanding that Flint re-connect with DWSD. Once again Ambrose refused to restore Detroit water for Flint water users. State and local public officials falsely insisted that the water was acceptable for use and took no action.

126. On February 26, 2015, Jennifer Crooks of the EPA wrote an email to MDEQ and EPA representatives. Crooks noted that Walters complained of "black sediment in her water." She

noted that the iron contamination was so high that the testing instrumentation could not measure it. Crooks wrote, ““But, because the iron levels were so high [Michael Glasgow, Flint Utilities Administrator], suggested testing for lead and copper. WOW!!!! Did he find the LEAD! 104 ppb. She has 2 children under the age of 3....Big worries here....I think Lead is a good indication that other contaminants are also present in the tap water that obviously were not present in the compliance samples taken at the plant...We also talked about Dr. Joan Rose from Michigan State being on the Flint Tech Advisory committee--would want to dive further into this...she and her family are also exhibiting the rashes when exposed to the water, and her daughter’s hair is falling out in clumps.”

127. In a second email on February 26, 2015, Crooks stated that Miguel Del Toral of the EPA is of the opinion that the “black sediment” in the Walters water was actually lead. She continued, “Miguel is wondering if Flint is feeding Phosphates. Flint must have Optimal Corrosion Control Treatment-is it phosphates? From a public health perspective, can we assume that the high lead levels in Mrs. Walters’ neighborhood are isolated to just her area? Or are they more widespread?”

128. On February 27, 2015, Stephen Busch advised Del Toral that the City was using corrosion control. This statement was false and Busch knew it was false when he made this statement to the EPA.

129. On March 5, 2015, the Governor and officials in the Governor’s office realized that they had a massive public health emergency which *probably included widespread lead poisoning* on their hands and began discussing distributing water filters to Flint water users. These public officials took no action to warn or otherwise protect Plaintiffs, and continued to conceal from them and the public the true nature, extent and severity of the public health crisis.

130. By March 10, 2015, James Henry of the GCHD raised concerns that he was being stonewalled by the State and City in accessing public health information about the Legionnaires' disease outbreak in Genesee County. The concealment of the public health emergency by City and State officials – Defendants herein – was shocking and unconscionable.

131. As of March 10, 2015, the Defendants knew that the extreme public health emergency involved lead poisoning, deadly legionella bacteria and a host of other ailments.

132. On March 25, 2015, Flint City Council voted to re-connect to Detroit's water system. Governor Snyder's appointed Emergency Manager, Gerald Ambrose, exacerbated the State-created danger by rejecting this vote of the Flint public officials.

133. On June 24, 2015, the aforementioned Del Toral Report warned of "High Lead Levels in Flint Michigan." On the following day, Del Toral wrote an internal email with respect to the elevated lead in Flint water at EPA stating:

"I understand that this is not a comfortable situation, but the State is complicit in this and the public has a right to know what they are doing because it is their children that are being harmed."

Del Toral further warned that the failure to inform Flint water users of the elevated lead levels was "bordering on criminal neglect."

134. The Del Toral Report was shared with, among others, MDEQ's Chief of Office of Drinking Water and Municipal Assistance, Liane Shekter-Smith, MDEQ's Water Treatment Specialist, Patrick Cook, MDEQ's District Supervisor, Stephen Busch, and MDEQ's Engineer assigned to District 11 (Genesee County), and Michael Prysby.

135. Nonetheless, State and local public officials failed to undertake any measures to effectively address any of the dangers, including lead poisoning, identified by Del Toral.

136. On June 30, 2015, Mayor Walling notified EPA Region 5 Director, Dr. Susan Hedman (“Hedman”) that Del Toral was speaking publicly about the Flint environmental crisis.

137. On July 2, 2015, Hedman advised Walling that he was given a preliminary draft and that it would be premature to draw any conclusions.

138. On July 10, 2015, MDEQ official Brad Wurfel, in an effort to conceal the public health crisis, appeared on public radio and advised listeners that Flint water was safe and that it was not causing “any broad problem” with lead leaching into residential water. Parents, worried about the lead poisoning of their children demanded answers from Wurfel. He told the concerned parents, “[l]et me start here—anyone who is concerned about lead in the drinking water can relax.” Wurfel, at the time he made this statement, knew his statements were false and he deliberately misled the public about the seriousness of the crisis.

139. By July 2015, multiple agencies within the State of Michigan, including the Governor, the Governor’s Office and MDEQ, had actual notice of high lead exposure and other dangers, including Legionnaires’ disease, associated with Flint water.

140. On July 22, 2015, Governor Snyder’s Chief of Staff, Dennis Muchmore, wrote to MDHHS Director Lyon and stated that the Plaintiffs’ concerns regarding lead poisoning and other dangers were being “blown off” by the Defendants.

141. On July 24, 2015, Wurfel continued to promote the cover-up of the health crisis. In response to the recognition that the Defendants were blatantly ignoring the concerns of Flint residents, he stated, “In terms of near-future issues, the bottom line is that residents of Flint do not need to worry about lead in their water supply, and DEQ’s recent sampling does not indicate an imminent health threat from lead or copper.”

142. In a July 28, 2015, email from MDHHS epidemiologist Cristin Larder to MDHHS employees Nancy Peeler and Patricia McKane, Larder identifies an increase in blood lead levels in Flint just after the switch to river water, and concludes only that the issue “warrant[s] further investigation.”

143. On the same day, Nancy Peeler sent an e-mail admitting an uptick in children with elevated blood lead levels in Flint in July, August, and September 2014, but attributing it to seasonal variation.

144. MDHHS took no actions as outsiders began to discover and reveal Flint’s lead problem. Instead, it withheld data and obstructed those researchers while actively attempting to refute their findings.

145. In August 2015, Professor Marc Edwards of Virginia Tech determined that there was serious lead contamination of the Flint water system and stated that the people of Flint face a major public health emergency.

146. Wurfel, speaking for the State, immediately dismissed and discredited Edwards by stating that Edwards’s team “only just arrived in town and (have) quickly proven the theory they set out to prove, and while the state appreciates academic participation in this discussion, offering broad, dire public health advice based on some quick testing could be seen as fanning political flames irresponsibly.”

147. By late 2014 or early 2015, Lyon was aware from MDHHS data that there was a dramatic increase in the percentage of Flint children with elevated blood lead level readings from blood drawn during the second and third quarters of 2014, and that Legionnaires’ disease was on the rise during the same period of time. Lyon was aware of this dangerous condition but did nothing to report the findings to the Plaintiffs or the public.

148. Lyon knew that these elevated blood lead levels, and an increase of Legionnaires' disease found in its own database, correlated with the introduction of the corrosive Flint River water into the Flint water distribution system. Lyon did not order that any action be taken to warn the public.

149. The increase in elevated blood lead levels in Flint's children, and Lyon's failure to do anything to prevent further injury to the people of Flint, identifies yet another aspect of this unconscionable government-created health and public safety emergency. Lyon, aware of the elevated blood lead levels in Flint's children, failed to report the evidence to the MDEQ, Governor's Office, EPA or the Flint community. His concealment of this critical information increased the risk and exacerbated the danger.

150. Dr. Mona Hanna-Attisha, in the summer of 2015, using data available to her from Hurley Hospital, observed a similar spike in the percentage of Flint children with elevated blood lead levels from blood drawn in the second and third quarter of 2014. She published her study in an effort to alert the community about the health risks associated with drinking Flint River water.

151. The Defendants and the MDHHS immediately accused Dr. Hanna-Attisha of providing false information to the public.

152. In September 2015, the MDEQ continued to falsely assure the public that use of Flint Water was safe and continued to deny the public health crisis at hand. For example, a MDEQ document entitled, "DEQ Frequently Asked Questions, Water Lead Levels in the City of Flint, September, 2015" which stated: "Are there other ways the city monitors for lead exposure? The County Health Departments, overseen statewide by the Michigan Department of Health and Human Services, *regularly monitors blood levels* in children throughout Michigan communities. *The leading cause of lead poisoning is exposure to lead paint.* Blood lead level testing results for

the 12-month period just after the City of Flint changed its water source (May 2014 – April 2015) *showed no significant change* in the pattern of blood lead levels in Flint, compared to the previous three years. This data *suggests the recent change in water source by the City of Flint has not contributed to an increase in lead exposure* throughout the community.” (emphasis added).

153. In a September 11, 2015, e-mail to Linda Dykema and Kory Groetsch of the MDHHS, Defendant Shekter-Smith wrote: “Since we last spoke, there’s been an increase in the media regarding lead exposure. Any progress developing a proposal for a lead education campaign? We got a number of legislative inquiries that we are responding to. It would be helpful to have something more to say.” DHHS’s Bruneau responded to Groetsch: “Told ya,” and incredibly, includes a “smiley face” emoticon.

154. Groetsch then responds to Shekter-Smith that Bruneau has written only “the bones” of a health education and outreach plan.

155. The same day, Robert Scott, the data manager for the MDHHS Healthy Homes and Lead Prevention program, was e-mailed a copy of a grant proposal for Professor Edwards’s study. Edwards’s grant proposal described a “perfect storm” of “out of control” corrosion of city water pipes leading to “severe chemical/biological health risks for Flint residents.” Scott forwarded the grant proposal to MDHHS employees Nancy Peeler, Karen Lishinski, and Wesley Priem, with the note “[w]hen you have a few minutes, you might want to take a look at it. Sounds like there might be more to this than what we learned previously. Yikes!”

156. On September 22, 2015, MDHHS Environmental Public Health Director Lynda Dykema, emailed MDHHS’ GERALYN and Defendant Peeler, among others. She stated: “Here is a link to the VA Tech study re city of Flint drinking water... It appears that the researchers have completed testing of a lot of water samples and the results are significantly different than the city

and DEQ data. It also appears that they've held public meetings in Flint, resulting in concerns about the safety of the water that have arisen in the last few days."

157. On the same day, Dr. Mona Hanna-Attisha requested from Robert Scott and others at MDHHS full state records on blood tests, likely to compare to her own data. She notes "[s]ince we have been unable to obtain recent MCIR blood lead data for Flint kids in response to the lead in water concerns, we looked at all the blood lead levels that were processed through Hurley Medical Center[.]" She tells the MDHHS that despite being denied data access from the state, she has found "striking results."

158. On September 25, 2015, Wurfel falsely advised media and the public that MDHHS officials have re-examined its blood lead level data and the MDHHS statistics do not show the same upward trend documented by Dr. Hanna-Attisha.

159. On September 28, 2015, Wurfel stated publically that the Flint water crisis was becoming "near-hysteria" because of Dr. Hanna-Attisha's report. He said that he wouldn't call her reports "irresponsible. I would call them unfortunate." Wurfel finished his remarks that day by falsely stating that "Flint's drinking water is safe in that it's meeting state and federal standards."

160. The same day Dr. Hanna-Attisha's results were released, Robert Scott emailed Nancy Peeler, noting that he had tried to "recreate Hurley's numbers," and says he sees "a difference between the two years, but not as much difference as they did." Despite the fact that this constitutes MDHHS's first internal recognition that their own methodology could have been wrong and that Flint children had been poisoned, Scott added "I'm sure this one is not for the public."

161. As this was going on, Professor Edwards forcefully requested blood lead data from Mr. Scott. In an email, the Professor notes that the State had failed to provide the records to Dr. Hanna-Attisha's team, and accusing the MDHHS of "raising...obstacles to sharing it with everyone

who asks.” Professor Edwards claims to have been requesting the data since August, and notes that he has sent Scott ten e-mails on the subject.

162. The next day, Scott drafted a remarkable response, but never sent it to Professor Edwards on the advice of Defendant Peeler. Included in the would-be response: “I worked with you earlier this month to get data to you relatively quickly but did not manage to complete the process before I went on annual leave for several days. I neglected to inform you that I’d be away, and I apologize for not informing you.”

163. Despite the fact that Scott admitted to going on vacation and leaving an important task unfinished as a public health crisis unfolded, Peeler tells him to “apologize less.”

164. The day after Dr. Hanna-Attisha releases her study, the City of Flint issues a health advisory, telling residents to flush pipes and install filters to prevent lead poisoning.

165. The same day, Robert Scott responded to an email from colleagues about Detroit Free Press interest in doing a lead story. At 12:16 p.m., Free Press reporter Kristi Tanner sent an email to Angela Minicuci at MDHHS saying Tanner had looked at the lead increase in Flint as shown in DHS records between 2013-2014 and 2-14-2015 and Tanner is concluding that the increase “is statistically significant.”

166. Scott writes to Minicuci: “The best I could say is something like this: ‘While the trend for Michigan as a whole has shown a steady decrease in lead poisoning year by year, smaller areas such as the city of Flint have their bumps from year to year while still trending downward overall.’”

167. Nancy Peeler, also a party to the conversation, writes back to Scott and Minicuci: “My secret hope is that we can work in the fact that this pattern is similar to the recent past.”

168. This conversation unfolded the very day after Scott told Peeler that his own review of the data showed increased post-switch lead levels, but that his findings were not to be made public.

169. Peeler and Scott intentionally withheld information that they had a duty to disclose to the public, and actively sought to hide the lead poisoning epidemic that they had previously failed to discover.

170. On September 29, 2015, Wurfel referred to EPA Del Toral of the EPA as a “rogue employee.”

171. Also on September 29, 2015, GERALYN Lasher e-mailed Defendants Peeler and Wells, Scott, and several others at MDHHS: “Is it possible to get the same type of data for just children under the age of six? So basically, the city of Flint kids ages six and under with the same type of approach as the attached chart you gave us last week?”

172. Linda Dykema responds to fellow MDHHS employees including Defendant Wells: “[i]t’s bad enough to have a data war with outside entities, we absolutely cannot engage in competing data analyses within the Department, or, heaven forbid, in public releases.”

173. Defendant Wells’s only reply to that email was a single word: “Agree,” showing MDHHS continuing efforts to mislead the public, protect itself, and discredit Dr. Hanna-Attisha.

174. The MDHHS and its employees were completely disinterested in the truth or finding out whether it may have made an error.

175. When Dr. Hanna-Attisha directly e-mailed Defendant Wells with updated findings that isolated certain high risk areas of the city and showed that blood lead levels have “more than tripled,” Defendant Wells responded that the state was working to replicate Hanna-Attisha’s analysis, and inquired about Dr. Hanna-Attisha’s plans to take the information public.

176. While discouraging her department to look further into Dr. Hanna-Attisha's findings and misleading Dr. Hanna-Attisha, Defendant Wells remained focused on a single task; saving face at the expense of Flint's residents.

177. By late September 2015, reconnecting to the Detroit water system was the only reasonable option to protect the health and safety of the Flint water users. Yet the State deliberately chose not to proceed in this fashion. Instead, on or about October 2, 2015, State officials announced that the State would appoint a Flint Water Advisory Task Force and would provide water filters designed to eliminate the lead in the water to Flint water users.

178. On October 8, 2015, the Governor recognized that he could no longer pretend that the water from the Flint River was safe. He finally ordered Flint to re-connect with the Detroit water system which contained corrosion control chemicals.

179. The re-connect to DWSD took place on or about October 16, 2015.

180. Incredibly, and in blatant violation of state law, at all relevant times the state's "top doctor," MDHHS chief medical executive Dr. Eden Wells was attending to her responsibilities part time while also working at the University of Michigan. Dr. Wells did not become a full time state employee until February 1, 2016, and her mandatory responsibilities at the state prior to that time may have involved as little as eight (8) hours per week.

181. Dr. Wells was the sole medical doctor working as an executive for the department.

182. Dr. Wells's predecessor, Dr. Gregory Holtzman, has noted that as a full time employee, he "kept quite busy."

183. Flint is currently in a State of Emergency: Mayor Karen Weaver declared a State of Emergency on December 14, 2015. On January 4, 2016, the Genesee County Commissioners declared a State of Emergency. On January 5, 2016, Governor Snyder declared a State of

Emergency. On January 13, 2016, the Governor activated the Michigan National Guard to assist the people of Flint. On January 14, 2016, the Governor asked President Barak Obama and the Department of Homeland Security, Federal Emergency Management Agency (“FEMA”) to declare Flint a Major Disaster. On January 16, 2016, FEMA issued an emergency declaration to assist the people of Flint.

184. The relief efforts of State public officials have been ineffective, indeed often frivolous, in mitigating the devastation caused by its creation of the public health crisis. The ineffective relief efforts have prolonged the dangerous conditions and, in many cases, the failed mitigation efforts have further exacerbated the effects of the public health calamity created by the State.

H. Defendants’ Misconduct Has Caused the Plaintiffs to Suffer Devastating Health Effects and Other Personal Injuries

185. As a result of the failure to properly treat water from the Flint River, corrosive water was delivered throughout the Flint Water System. The water predictably corroded metal pipes, causing them to leach lead into the water. An estimated 15,000 of Flint’s 30,000 residential service lines are composed at least partially of lead. The exact number is presently unknown.

186. Lead’s catastrophic effects are indisputable. According to the EPA, “[y]oung children, infants, and fetuses are particularly vulnerable to lead because the physical and behavioral effects of lead occur at lower exposure levels in children than in adults. A dose of lead that would have little effect on an adult can have a significant effect on a child. In children, low levels of exposure have been linked to damage to the central and peripheral nervous system, learning disabilities, shorter stature, impaired hearing, and impaired formation and function of blood cells.”

187. According to the World Health Organization, “lead affects children’s brain development resulting in reduced intelligence quotient (IQ), behavioral changes such as shortening

of attention span and increased antisocial behavior, and reduced educational attainment. Lead exposure also causes anemia, hypertension, renal impairment, immunotoxicity and toxicity to the reproductive organs. The neurological and behavioral effects of lead are believed to be irreversible.”

188. Lead is so harmful that, according to the EPA, “ingestion of lead can cause seizures, coma and even death.”

189. The effects of lead exposure are long lasting. The EPA has explained that, “[l]ead can accumulate in our bodies over time, where it is stored in bones along with calcium. During pregnancy, lead is released from bones as maternal calcium and is used to help form the bones of the fetus. Lead can also cross the placental barrier exposing the fetus to lead. This can result in serious effects to the mother and her developing fetus, including: reduced growth of the fetus [and] premature birth.”

190. Tragically, the damage from lead exposure to Flint’s children includes diminished potential over the entire course of their lives. The World Health Organization states, “[t]hese costs are sometimes referred to as *lost opportunity costs*. Using a conservative estimate, the decrease in intelligence attributable to each 1 µg/dl increase in blood lead level is 0.25 IQ points, and the decrement in lifetime economic productivity associated with lost IQ point is 2.4%. When exposure to lead is widespread in a society, the aggregate loss of intelligence (and thus economic productivity) can be substantial.”

191. Notably, this estimate is conservative as it relates solely to lost earning potential and does not include costs related to special educational, medical, sociological, disability and occupational services, or long-term monitoring and treatment costs.

192. According to an analysis of the economic losses attributable to lead exposure in 2009, “[t]he present value of Michigan’s economic losses attributable to lead exposure in the 2009

cohort of 5 year-olds ranges from \$3.19 billion (using U.S. blood lead levels) to \$4.85 billion (using Michigan blood lead levels) per year in loss of future lifetime earnings.”

193. Other researchers have estimated the economic impact of childhood lead poisoning to be as high as \$50.9 billion per year in lost economic productivity resulting from reduced cognitive potential from preventable childhood lead exposure.

194. As a direct and proximate result of Defendants’ misconduct, Flint’s children have suffered specific, measurable damages in the form of lost earning potential. They have also incurred damages in the form of required special educational, medical, sociological, occupational and disability services and related education assistance programs.

195. Lead is also harmful to adults. The EPA warns that “[a]dults exposed to lead can suffer from: Cardiovascular effects, increased blood pressure and incidence of hypertension, [d]ecreased kidney function, [and] [r]eproductive problems (in both men and women).” The World Health Organization explains that the direct medical costs of lead exposure include treatment for acute lead poisoning – typically chelation therapy – as well as the treatment of cardiovascular disease in adults who develop hypertension following lead exposure.

196. Given the long-lasting risks of lead exposure and the potential for lead sediment to be disturbed and re-mobilized into the water system, Plaintiffs will require regular medical and tap water testing and evaluation, at bare minimum, in accordance with government standards.

197. Additionally, as described more fully above, the water crisis in Flint caused an outbreak of Legionnaires’ disease. As explained above, the presence of *legionella* was a direct and proximate result of the switch to the Flint River as a water source and related conduct. At least 87 Flint residents contracted Legionnaires’ disease and at least nine died. Those residents who became infected with Legionnaires’ disease suffered death, and for those who lived, incurred pain and

suffering as well as substantial medical costs due to Defendants' conduct. At least one case of Legionnaires' Disease occurred in 2016, even after the City's water supply was switched back to the DWDS, indicated that the disease still poses a risk to the community.

198. In October, 2016, Flint and Michigan authorities determined that Flint was experiencing an outbreak of the infectious bacterial disease called Shigellosis, which can cause bloody diarrhea and fever. Shigellosis is caused by the Shigella bacteria, and its symptoms include fever, abdominal pain and diarrhea, which can lead to dehydration. Since the water crisis, there has been a steady increase of cases, especially in children. The youngest person diagnosed was 17 months old.

199. Finally, as a direct and proximate result of Defendants' conduct, Plaintiffs have suffered extreme emotional distress.

I. Defendants' Misconduct Has Also Caused the Plaintiffs to Suffer Extensive Property Damage and Monetary Losses.

200. In addition to the devastating health effects and lost economic productivity caused by lead exposure, Defendants' misconduct has caused significant property damage and monetary losses.

201. The property damages sustained by Plaintiffs fall into three basic categories. First, the Plaintiffs' pipes and appliances themselves have corroded, shortening their life span, and causing further damage when they break. Second, the corroded pipes and appliances remain a continuing source of lead and potentially *legionella* – thus, pipes and appliances must be replaced or else remain a continuing source of harmful exposure. Finally, the value of Plaintiffs' real property has been substantially diminished as a result of the continuing questionable safety of Flint's water and existence of corroded pipes and appliances.

202. Although the City has begun adding polyphosphate to its system to reduce the leaching of lead from its service lines, this is unlikely to render Flint's water safe because many of the pipes have become so corroded that not even phosphate will be able to fully encapsulate the surface of the pipes and prevent lead from leaching into the water supply.

203. The Plaintiffs' homes and properties have been affected in the same fashion. Even with the addition of phosphate, their pipes and appliances will remain corroded until replaced, and continue to be a source of lead and potentially *legionella*. Solubilized and particulate lead and *legionella* remain in portions of the piping system and appliances, and can become remobilized at any time, causing further damage and health effects.

204. The effect of corrosive water on residential and commercial piping and appliances is well understood. For example, a 2014 study by the Water Research Watershed Center stated: "[w]ith respect to the corrosion potential of YOUR drinking water, the primary concerns include the potential presence of TOXIC Metals, such as lead and copper; deterioration and damage to the household plumbing, and aesthetic problems such as: stained laundry, bitter taste, and greenish-blue stains around basins and drains."

205. The Water Research Watershed Center has further explained that, "The cost of corrosion can be expensive. Corrosion can impact you and your family's health, aesthetic quality of your water, waste money, and damage your household piping and fixtures."

206. Not only does corrosion cause the "premature failure of household plumbing and plumbing fixtures," the Water Research Watershed Center has explained, corrosion also "decreases the efficiency of hot water heaters and may cause premature failure to the heater."

207. On January 10, 2017, Marc Edwards, the principal scientist who discovered the high lead concentration in Flint water, published "*Flint Water Crisis Caused By Interrupted Corrosion*

Control: Investigating "Ground Zero Home" in which he concluded that the lead in the homes originated in part from rust stripped by the corrosive water from galvanized pipes. Galvanized pipes are in people's homes. Although galvanized (zinc-coated) pipe is still considered to be a safe transport material for drinking water, there are some potential health concerns if the water supply is corrosive due to its acidic condition (low pH). These results establish that the pipes in the pipes and appliances in Flint homes and businesses need to be replaced.

208. Moreover, residents and property owners have already reported damage to major appliances such as dishwashers and washing machines following Flint's decision to switch water sources.

209. According to emails from Governor Snyder's office, the State estimates that replacing Residents' pipes alone could cost between \$6,000 and \$8,000 per household. Other estimates of those replacement costs are far higher. Obviously, the cost to replace pipes in a residential building with multiple units will be far higher, costing tens and hundreds of thousands of dollars.

210. Corroded pipes not only present a continuing health threat, they risk further damage to one's property because corrosion can result in deep pits in the pipe or tank walls that can eventually break, causing substantial water damage to homes and businesses.

211. Although the City has stated it intends to begin replacing some City-owned pipes, this is far from sufficient to render Flint's water safe. Sergio Kapusta, a fellow at NACE International, an industry organization that develops corrosion prevention and control standards in Houston, has explained that "changing all the mains in the city will not really solve the problem for the homeowners" because the lead piping in these homes probably has been severely compromised. "The corrosion is not going away. It's still there."

212. Plaintiffs have been left to pay for the damage caused by Defendants. This has proven nearly impossible as many of the City's residents survive on very little money. To make matters worse, the Washington Post has reported that, "many in Flint say banks are refusing to offer refinancing that could free up money to pay for the retrofitting, and that the costs are not covered by insurance. The crisis has created a perfect storm to strip their houses of their remaining value, they say."

213. Moreover, the problems associated with Flint's water have had and are having a significant impact on residential and commercial property values and rental rates in the City. As Daniel Jacobs, an executive with Michigan Mutual explained, "[t]he tragedy is an already depressed community is now likely to see housing values plummet not only because of the hazardous water, but because folks cannot obtain financing."

214. Certain banks and mortgage companies have refused to make loans, unless the borrower establishes that its water is potable. A Wells Fargo & Co. spokeswoman said it is reviewing government lending guidelines: "[u]ntil [water] testing and potability is affirmed, it will be difficult to lend," said the spokeswoman, who said such difficulties would apply to all lenders. Representatives from Bank of America and J.P. Morgan similarly have acknowledged requiring verification of potable water to provide financing to Flint residents. Lenders claim their hands are tied. As the Federal Housing Administration, which backs loans to less-creditworthy borrowers, explained, government regulations require "a continuing and sufficient supply of safe and potable water" to provide home financing.

215. This creates a catch-22. Despite having switched back to receiving its water from DWSD, the current extent of corrosion in Flint renders the water unsafe because the pipes and appliances will remain corroded and sources of lead until they are replaced. However, Plaintiffs,

220. As a direct and proximate result of the unconstitutional acts of Defendants, acting through the Governor's office, and/or the Michigan Department of Environmental Quality ("MDEQ"), and/or the Michigan Department of Health and Human Services ("MDHHS"), and its official policymakers, and/or Emergency Managers Darnell Early and Jerry Ambrose, all acting in their official capacities and pursuant to customs, policies and/or practices, as alleged in this Complaint, Plaintiffs have experienced and will continue to experience into the future:

- (a) Serious and in some cases life threatening and irreversible bodily injury; and
- (b) Substantial economic losses in the nature of medical expenses, lost wages.

221. Plaintiffs are entitled to an award of noneconomic damages in the nature of pain and suffering, embarrassment, outrage, mental anguish, fear and mortification, and stress related physical symptoms such as sleepiness, gastro-intestinal discomfort, neuropathy, dermatological disorders, hair loss and other related symptoms.

222. Plaintiffs have experienced property damage to their homes and places of business in the nature of lost property value and seek damages to remediate the permanent damage caused by the use of corrosive water without proper anti-corrosive treatment.

**COUNT II: VIOLATION OF ARTICLE 10 § 2
UNCONSTITUTIONAL TAKING OF PROPERTY
PLAINTIFF PROPERTY OWNERS AND USERS
AS AGAINST ALL DEFENDANTS**

223. Plaintiffs hereby repeat, reallege, and reiterate each and every allegation in the preceding paragraphs as if fully restated herein.

224. Article 10, § 2 of the Michigan Constitution requires that "[p]rivate property shall not be taken for public use without just compensation."

225. This claim is brought by Plaintiffs, who had water service lines susceptible to damage caused by corrosive water and which were rendered unsafe even after the corrosive water was discontinued.

226. The actions of the Defendants were a substantial cause of the decline of the Plaintiffs' property values and ordinary uses of their property.

227. These Defendants deliberately substituted safe drinking water with a known toxic alternative and their continued decision not to use anti-corrosive agents to prevent the foreseeable deterioration and/or destruction of the Plaintiffs' water service lines, thereby rendered them unsafe for future use even after the corrosive water was discontinued.

228. The Defendants took affirmative actions that directly targeted those properties with water service lines susceptible to damage caused by corrosive water, thereby rendering those properties unsafe, even after the corrosive water was discontinued.

229. As direct and proximate result of Defendants' unconstitutional taking of Plaintiffs' properties, Plaintiffs have experienced substantial loss of value and ordinary use and enjoyment of their properties.

230. The injury to Plaintiffs, as property owners, is unique or special because this group of Plaintiffs had water service lines susceptible to damage by corrosive water and which were rendered unsafe even after the corrosive water was discontinued.

PRAYER FOR RELIEF

Plaintiffs request the following relief from the court:

- a. An order declaring the conduct of Defendants unconstitutional;
- b. An injunctive order to remediate the harm caused by the Defendants' unconstitutional conduct including, but not limited to: repairs of private property and establishment of medical monitoring to provide health care and other appropriate services to Plaintiffs for a period of time deemed appropriate by the Court;

- c. Appointment of a monitor who will assist in the development of remedial plans including, but not limited to: early education, education intervention programs, criminal and juvenile justice evaluations;
- d. An order for an award of compensatory damages;
- e. An order for an award of punitive damages;
- f. An order for equitable relief;
- g. An order for pre-judgment and post-judgment interest;
- h. An order for an award of reasonable attorney's fees and litigation expenses;
and
- i. An order for all such other relief the court deems equitable.

Dated November 1, 2017

Respectfully submitted,



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