

Approved, SCAO

Information - Circuit court  
Original complaint - Court  
Warrant - Court

Bindover/Transfer - Circuit/Juvenile court  
Complaint copy - Prosecutor  
Complaint copy - Defendant/Attorney

<b>STATE OF MICHIGAN</b> 67th JUDICIAL DISTRICT 7th JUDICIAL CIRCUIT	<b>INFORMATION FELONY</b>	<b>CASE NO.  DISTRICT CIRCUIT</b>
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District Court ORI: MI-

Circuit Court ORI: MI-

Defendant's name and address				Victim or complainant	
THE PEOPLE OF THE STATE OF MICHIGAN v NICOLAS LYON 72 COUNTRY HILLS, MARSHALL, MI, 49068				J. Seipenko	
Codefendant(s) (if known)				Complaining witness	
				J. Seipenko	
				Date: On or about	
				2014-present	
City/Twp./Village Flint	County in Michigan Genesee	Defendant TCN	Defendant CTN	Defendant SID	Defendant DOB 11/23/1968
Police agency report no. 16-0004	Charge Involuntary Manslaughter, Misconduct in Office			Maximum penalty 15 years	
<input type="checkbox"/> A sample for chemical testing for DNA identification profiling is on file with the Michigan State Police from a previous case.		<input type="checkbox"/> Oper./Chauf. <input type="checkbox"/> CDL	Vehicle Type	Defendant DLN	

Witnesses

**STATE OF MICHIGAN, COUNTY OF GENESEE**

**IN THE NAME OF THE PEOPLE OF THE STATE OF MICHIGAN:** The prosecuting attorney for this county appears before the court and informs the court that on the date and at the location described, the defendant:

**COUNT 1 – HOMICIDE – MANSLAUGHTER – INVOLUNTARY**

did cause the death of Robert Skidmore on December 13, 2015, as a result of the negligent omission by said defendant to perform a legal duty, to wit: failing to alert the public about a Legionnaires' Disease outbreak in Genesee County, Michigan when he had notice that another outbreak was foreseeable and/or during the negligent performance of an act, to-wit: conducting an investigation of the Legionnaires' Disease outbreak in a grossly negligent manner; contrary to MCL 750.321. [750.321-C]  
FELONY: 15 Years and/or \$7,500.00. DNA to be taken upon arrest.

**COUNT 2 – MISCONDUCT IN OFFICE**

did intentionally mislead and withhold information about the Legionnaires' Disease outbreak in Genesee County, Michigan from Governor Rick Snyder contrary to the duties enjoined upon him by the Michigan Public Health Code and/or directing a health official to discontinue an analysis that would aid in determining the source of the Legionnaires' Disease outbreak and save lives; contrary to MCL 750.505 [750.505].  
FELONY: 5 Years and/or \$10,000.000

and against the peace and dignity of the State of Michigan.

Prosecuting Attorney

By: \_\_\_\_\_

\_\_\_\_\_  
Date

Approved, SCAO

Information - Circuit court  
Original complaint - Court  
Warrant - Court

Bindover/Transfer - Circuit/Juvenile court  
Complaint copy - Prosecutor  
Complaint copy - Defendant/Attorney

67th 7th	<b>STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT</b>	<b>COMPLAINT FELONY</b>	<b>CASE NO.  DISTRICT CIRCUIT</b>
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District Court ORI: MI-

Circuit Court ORI: MI-

Defendant's name and address THE PEOPLE OF THE STATE OF MICHIGAN v NICOLAS LYON 72 COUNTRY HILLS, MARSHALL, MI, 49068				Victim or complainant J. Seipenko	
Codefendant(s) (if known)				Complaining witness J. Seipenko	
Date: On or about 2014-present					
City/Twp./Village Flint	County in Michigan Genesee	Defendant TCN	Defendant CTN	Defendant SID	Defendant DOB 11/23/1968
Police agency report no. 16-0004	Charge Involuntary Manslaughter, Misconduct in Office			Maximum penalty 15 years	
<input type="checkbox"/> A sample for chemical testing for DNA identification profiling is on file with the Michigan State Police from a previous case.		<input type="checkbox"/> Oper./Chauf. <input type="checkbox"/> CDL	Vehicle Type	Defendant DLN	

Witnesses

**STATE OF MICHIGAN, COUNTY OF GENESEE**

The complaining witness says that on the date and at the location described, the defendant, contrary to law,

**COUNT 1 – HOMICIDE – MANSLAUGHTER – INVOLUNTARY**

did cause the death of Robert Skidmore on December 13, 2015, as a result of of the negligent omission by said defendant to perform a legal duty, to wit: failing to alert the public about a Legionnaires' Disease outbreak in Genesee County, Michigan when he had notice that another outbreak was foreseeable and/or during the negligent performance of an act, to-wit: conducting an investigation of the Legionnaires' Disease outbreak in a grossly negligent manner; contrary to MCL 750.321. [750.321-C]  
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FELONY: 5 Years and/or \$10,000.000

The complaining witness asks that defendant be apprehended and dealt with according to law.

Warrant authorized on _____ by: Date
Prosecuting official
<input type="checkbox"/> Security for costs posted

\_\_\_\_\_  
Complaining witness signature

Subscribed and sworn to before me on \_\_\_\_\_  
Date

\_\_\_\_\_  
Judge/Magistrate/Clerk Bar no.

Approved, SCAO

Information - Circuit court  
Original complaint - Court  
Warrant - Court

Bindover/Transfer - Circuit/Juvenile court  
Complaint copy - Prosecutor  
Complaint copy - Defendant/Attorney

67th 7th	<b>STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT</b>	<b>WARRANT FELONY</b>	<b>CASE NO.  DISTRICT CIRCUIT</b>
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District Court ORI: MI-

Circuit Court ORI: MI-

Defendant's name and address THE PEOPLE OF THE STATE OF MICHIGAN v NICOLAS LYON 72 COUNTRY HILLS, MARSHALL, MI, 49068				Victim or complainant J. Seipenko	
Codefendant(s) (if known)				Complaining witness J. Seipenko	
Date: On or about 2014-present					
City/Twp./Village Flint	County in Michigan Genesee	Defendant TCN	Defendant CTN	Defendant SID	Defendant DOB 11/23/1968
Police agency report no. 16-0004	Charge Involuntary Manslaughter, Misconduct in Office			Maximum penalty 15 years	
<input type="checkbox"/> A sample for chemical testing for DNA identification profiling is on file with the Michigan State Police from a previous case.		<input type="checkbox"/> Oper./Chauf. <input type="checkbox"/> CDL	Vehicle Type	Defendant DLN	

Witnesses

**STATE OF MICHIGAN, COUNTY OF GENESEE**

**To any peace officer or court officer authorized to make arrest:** The complaining witness has filed a sworn complaint in this court stating that on the date and the location described, the defendant, contrary to law,

**COUNT 1 – HOMICIDE – MANSLAUGHTER – INVOLUNTARY**

did cause the death of Robert Skidmore on December 13, 2015, as a result of the negligent omission by said defendant to perform a legal duty, to wit: failing to alert the public about a Legionnaires' Disease outbreak in Genesee County, Michigan when he had notice that another outbreak was foreseeable and/or during the negligent performance of an act, to-wit: conducting an investigation of the Legionnaires' Disease outbreak in a grossly negligent manner; contrary to MCL 750.321. [750.321-C]  
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FELONY: 5 Years and/or \$10,000.000

Upon examination of the complaining witness, I find that the offense charged was committed and that there is probable cause to believe that defendant committed the offense. THEREFORE, IN THE NAME OF THE PEOPLE OF THE STATE OF MICHIGAN,

- a. I order you to arrest and bring defendant before the \_\_\_\_\_ District Court immediately.
- b. I order you to bring defendant before the \_\_\_\_\_ District Court.

Date \_\_\_\_\_

Judge/Magistrate \_\_\_\_\_

Bar no. \_\_\_\_\_

See return on reverse side.

**RETURN**

As ordered in this warrant, the defendant was arrested on \_\_\_\_\_ at \_\_\_\_\_  
Date Time

at \_\_\_\_\_  
Place of arrest

\_\_\_\_\_  
Date

\_\_\_\_\_  
Peace officer

Approved, SCAO

Information - Circuit court  
Original complaint - Court  
Warrant - Court

Bindover/Transfer - Circuit/Juvenile court  
Complaint copy - Prosecutor  
Complaint copy - Defendant/Attorney

67th 7th <b>STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT</b>	<b>BINDOVER/TRANSFER AFTER PRELIMINARY EXAMINATION FELONY</b>	<b>CASE NO.  DISTRICT CIRCUIT</b>
------------------------------------------------------------------------------------	-----------------------------------------------------------------------	-----------------------------------------------

District Court ORI: MI- \_\_\_\_\_ Circuit Court ORI: MI- \_\_\_\_\_

Defendant's name and address				Victim or complainant	
THE PEOPLE OF THE STATE OF MICHIGAN v NICOLAS LYON 72 COUNTRY HILLS, MARSHALL, MI, 49068				J. Seipenko	
				Complaining witness	
				J. Seipenko	
Codefendant(s) (if known)				Date: On or about	
				2014-present	
City/Twp./Village Flint	County in Michigan Genesee	Defendant TCN	Defendant CTN	Defendant SID	Defendant DOB 11/23/1968
Police agency report no. 16-0004	Charge Involuntary Manslaughter, Misconduct in Office			Maximum penalty 15 years	
<input type="checkbox"/> A sample for chemical testing for DNA identification profiling is on file with the Michigan State Police from a previous case.		<input type="checkbox"/> Oper./Chauf. <input type="checkbox"/> CDL	Vehicle Type	Defendant DLN	

Date: \_\_\_\_\_ District judge: \_\_\_\_\_

Reporter/Recorder	Cert.no.	Represented by counsel	Bar no.

**EXAMINATION WAIVER**

1. I, the defendant, understand:
  - a. I have a right to employ an attorney.
  - b. I may request a court-appointed attorney if I am financially unable to employ one.
  - c. I have a right to a preliminary examination where it must be shown that a crime was committed and probable cause exists to charge me with the crime.
2. I voluntarily waive my right to a preliminary examination and understand that I will be bound over to circuit court on the charges in the complaint and warrant (or as amended).

Defendant attorney \_\_\_\_\_ Bar no. \_\_\_\_\_ Defendant \_\_\_\_\_

I consent to this waiver: \_\_\_\_\_

Prosecuting attorney \_\_\_\_\_ Bar no. \_\_\_\_\_

**ADULT BINDOVER**

3. Examination was waived on \_\_\_\_\_ Date \_\_\_\_\_
4. Examination was held on \_\_\_\_\_ and it was found that probable cause exists to believe both that an offense not cognizable by the district court has been committed and that the defendant committed the offense.
5. The defendant is bound over to circuit court to appear on \_\_\_\_\_ at \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_
- on the charge(s) in the complaint.
- on the amended charge(s) of \_\_\_\_\_

\_\_\_\_\_ MCL/PACC Code \_\_\_\_\_

6. Bond is set in the amount of \$ \_\_\_\_\_ . Type of bond: \_\_\_\_\_  Posted

\_\_\_\_\_ Date \_\_\_\_\_ Judge \_\_\_\_\_ Bar no. \_\_\_\_\_

**Certification of transmittal and bindover/transfer for juvenile are printed on other side.**

**OFFICE OF SPECIAL COUNSEL  
Investigator's Report**



**Attorney General Case No. 16-0004**

**DATE: June 14, 2017**

<b>Custody</b>	<b>DEFENDANT'S NAME</b>	<b>Age</b>	<b>Sex</b>	<b>Race</b>	<b>D.O.B.</b>	<b>SID</b>
NIC	NICOLAS LEONARD LYON 72 COUNTRY HILLS, MARSHALL, MICHIGAN 49068	49	M	W	11/23/68	N/A

**Offenses**

**COUNT 1 – HOMICIDE – MANSLAUGHTER – INVOLUNTARY**

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FELONY: 15 Years and/or \$7,500.00. DNA to be taken upon arrest.

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FELONY: 5 Years and/or \$10,000.000

<b>Place of Offense:</b> CITY OF FLINT, MICHIGAN	<b>Date:</b> 2014 TO PRESENT	<b>Date of Complaint</b> 06/14/2017
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<b>Complainant's Name</b> JEFF SEIPENKO	<b>Full Address</b> SPECIAL AGENT	<b>Age</b>	<b>Sex</b>	<b>Race</b>	<b>Phone No.</b>
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<b>Person to Sign Complaint</b> INFORMATION AND BELIEF	<b>Reviewing Attorney &amp; Bar No.</b> SPECIAL ASSISTANT ATTORNEY GENERAL TODD FLOOD, P58555
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**SPECIAL AGENT JEFFREY SEIPENKO  
MICHIGAN ATTORNEY GENERAL**

**SPECIAL ASSISTANT ATTORNEY GENERAL  
TODD FLOOD, P# 58555**

## **PROBABLE CAUSE STATEMENT**

I, Jeff Seipenko, a Special Agent assigned to the OFFICE OF SPECIAL COUNSEL, MICHIGAN DEPARTMENT OF ATTORNEY GENERAL, in support of this probable cause statement, state the following:

Defendant LYON was aware of Genesee County's Legionnaires' Disease outbreak at least by January 28, 2015 and did not notify the public until a year later. At that time, Defendant LYON knew that Legionnaires' Disease was deadly and that, if no mitigating steps were taken, the outbreak was likely to occur again. In his position as Director of the Michigan Department of Health and Human Services, Defendant LYON had a legal duty to protect public health. Defendant LYON exhibited gross negligence when he failed to alert the public about the deadly outbreak and by taking steps to suppress information illustrating obvious and apparent harms that were likely to result in serious injury. Defendant LYON willfully disregarded the deadly nature of the Legionnaires' Disease outbreak. Defendant LYON later stated that "he can't save everyone" and that "everyone has to die of something." Defendant LYON's acts and failure to act resulted in the death of at least one person, Robert Skidmore.

## **INTRODUCTION**

1. On April 25, 2014, Flint's drinking water source was switched from pre-treated water received from the Detroit Water and Sewerage Department ("DWSD") to raw, untreated water from the Flint River. Flint's new water source was to be treated and distributed throughout the drinking water system by the Flint Water Treatment Plant ("FWTP"). Within one month of the water source switch, officials at the local, state, and federal level began receiving complaints from Flint residents on the Flint water supply system about Flint's drinking water quality. These complaints included, among other things, reports of severe discoloration, foul odor, and the onset of skin rashes.
2. By October 2014, Genesee County recorded 30 cases of Legionnaires' Disease for the previous six (6) months, while, in previous years, Genesee County recorded between two (2) and nine (9) cases of Legionnaires' Disease per year. Numerous witnesses have testified the record number of Legionnaires' Disease cases in 2014 is defined as an outbreak of the disease. On January 28, 2015, the Michigan Department of Health and Human Services ("MDHHS") State Epidemiologist, Corinne Miller, informed Defendant LYON of the outbreak.
3. On July 22, 2015, Governor Snyder's Chief of Staff, Dennis Muchmore, emailed Defendant LYON regarding reports of elevated levels of lead in Flint's drinking water supply. Defendant LYON then requested that his staff look into the issue. In September of 2015, Dr. Mona Hanna-Attisha, a pediatrician at Hurley Hospital in Flint, published her research findings showing a statistically significant increase in elevated blood lead levels in children in Flint since the city's switch in drinking water source. In response, Defendant LYON directed his staff to provide a "strong statement" that the blood lead levels were due to seasonal fluctuations.
4. In September 2015, Corinne Miller provided an update about a second wave of Flint's Legionnaires' Disease outbreak to Nancy Grijalva, Defendant LYON's Executive Administrative Assistant, that had occurred during the summer months of 2015.
5. On January 13, 2016, Governor Snyder declared a State of Emergency in Flint which, for the first time, notified the public about the Legionnaires' Disease outbreak. Soon thereafter, at the request of Governor Snyder's office, Shawn McElmurry, a Civil and Environmental Engineering Professor at

Wayne State University, put an academic team together to investigate any connection between the Legionnaires' Disease outbreak and Flint's switch in drinking water.

6. On April 25, 2016, Defendant LYON testified under oath at the Michigan Joint Select on the Flint Water Emergency, that their department was "not aware as they should have been" about the Legionnaires' Disease outbreak. At that same hearing, Defendant LYON testified that the MDHHS did not block the United States Centers for Disease Control and Prevention ("CDC") from helping the Genesee County Health Department ("GCHD"). The first time that Defendant LYON learned of significant health issues was from Dennis Muchmores' July 22, 2015 email.

### VICTIM

7. Robert Skidmore, DOB: July 27, 1930; Last known address: 576 Melrose Lane, Genesee Township, MI, 48458; DOD: December 13, 2015.
8. **Dr. Ahmed Abdel-Halim**, physician at McLaren Flint Hospital, will testify that Mr. Skidmore was admitted to the hospital on June 1, 2015 with symptoms consistent with pneumonia.
9. **Dr. Brian Hunter**, Genesee County Medical Examiner, will testify that he will not refute the medical doctor's findings that Legionnaires' Disease was a cause of Robert Skidmore's death.
10. **Dr. Sharook**, physician at McLaren Flint Hospital, will testify that on June 2, 2015, he collected Robert Skidmore's sputum sample and cultured the sample. The culture showed a positive result for the legionella antigen and was categorized with the outbreak identifier "GENESEE LEGIONELLA 2014." Mr. Skidmore died on December 13, 2015.
11. The investigation has shown that the CDC analyzed several sputum samples that showed a positive result for legionella bacteria, including a sample from Robert Skidmore. The antibody from Robert Skidmore's sputum sample matched an antibody from another victim's sputum sample. The second victim was a patient at Hurley Hospital in Flint and there are no known common sources of infection between the second victim and Robert Skidmore, except that they both received water at their respective hospitals from the Flint River.

### THE DIRECTOR AND HIS DUTIES

12. Pursuant to Article 4, Section 51 of the Michigan Constitution of 1963, the Department of Public Health for the State of Michigan, presently referred to as the Michigan Department of Health and Human Services ("MDHHS"), shall continually and diligently endeavor to prevent disease, prolong life, and promote the public health through organized programs, including prevention and control of environmental health hazards; prevention and control of diseases; prevention and control of health problems of particularly vulnerable population groups; development of health care facilities and agencies and health services delivery systems; and regulation of health care facilities and agencies and health services delivery systems to the extent provided by law. MCL 333.2221.
13. In furtherance of the duties assigned by the Michigan Constitution and the Michigan Public Health Code, the MDHHS exercises broad oversight of community health programs and initiatives throughout the State of Michigan.
14. While the Michigan Legislature assigned responsibility for "protecting, preserving, and promoting the health and safety of the people of Michigan," to the MDHHS itself, the functions assigned to the MDHHS by the Michigan Public Health Code vest in the Director or in an employee or agent of the



MDHHS who is assigned the function in accordance with internal administrative procedures of the department established by the Director. A function vested by law in a nonautonomous entity of the MDHHS may be exercised by the Director. MCL 333.2205.

15. During the relevant time period, Defendant LYON served as the Director of the MDHHS, and is charged with “protecting, preserving, and promoting the health and safety of the people of Michigan.” As such, the functions assigned by the Public Health Code to the respective state departments vested with him or employees or agents designated by him.

### CHRONOLOGY

16. **Bonnie Childs**, Public Health Supervisor for the Communicable Disease Program at the GCHD, will testify that on June 24, 2014, Tim Bolen, Region 3 Epidemiologist within the Surveillance Section of the MDHHS, and she attended a “bug fuzz” meeting. Bug fuzz meetings are monthly meetings hosted by the GCHD, which are attended by, but not limited to, infection control practitioners from local hospitals, and are conducted for the purpose of updating the GCHD as to ongoing infectious disease concerns in Genesee County. Those present at the June 2014 meeting became concerned about Legionnaire’s Disease and expressed the need to “be careful about monitoring Legionnaires’ numbers.”
17. **Shannon Johnson**, Infectious Disease Epidemiologist at the MDHHS, will testify that on October 13, 2014, she created an illustration of the Legionnaires’ Disease outbreak in Genesee County in the form of epi-curves. These epi-curves showed approximately a three-fold increase in Legionnaires’ Disease cases as compared to 2013. Shannon Johnson will also testify that on January 28, 2015, she sent an email to her colleagues in the Communicable Disease Division of the MDHHS, advising them that Corinne Miller took her epi-curves to MDHHS Deputy Director Sue Moran’s office for a meeting with Defendant LYON.
18. **Susan Bohm**, Unit Manager of Enteric and Respiratory Illnesses Epidemiology Unit at the MDHHS, will testify that on October 17 and 21, 2014, she sent an email to her staff summarizing two calls she had with Liane Shekter-Smith, Chief of the Office of Drinking Water and Municipal Assistance at the Michigan Department of Environmental Quality (“MDEQ”). During these calls, Liane Shekter-Smith expressed concern that the MDHHS would announce the Flint River as the source of the Legionnaires’ Disease outbreak. Additionally, Liane Shekter-Smith informed Susan Bohm that Governor Snyder’s office had already “been involved.”
19. **Corinne Miller**, former State Epidemiologist and Director of the Bureau of Epidemiology at the MDHHS, will testify that on **January 28, 2015**, she provided Defendant LYON with epi-curves illustrating the 2014 Legionnaires’ Disease outbreak in Genesee County. She explained the epi-curves to Defendant LYON and informed him that he could not rule out Flint’s water as a possible source of the outbreak. Additionally, on the same day, several members of the MDHHS and the MDEQ communicated in an email about a conference call scheduled to take place that afternoon at or about 2:00 PM.

Corinne Miller will testify that on September 10, 2015, Defendant LYON’s secretary requested Corinne Miller to provide an update regarding the second wave of the Legionnaires’ Disease outbreak. Corinne Miller provided that update and assumed that the secretary’s request was on behalf of Defendant LYON and that he received her update.

20. **Linda Dykema**, Director of the Division of Environmental Health at the MDHHS, will testify that on January 28, 2015, she had a standing meeting with Corinne Miller. During the meeting, Corinne Miller told Linda Dykema that she had briefed Defendant LYON’s office on the concerns with legionella in

Genesee County. After the meeting, Linda Dykema sent an email to her staff at 1:49 PM, directing them that should they receive any phone calls regarding Flint on the MDHHS hotline, they should refer callers directly to her. Linda Dykema was “[s]haring this information [with her staff] to make [them] aware that there is a political situation that we don’t want to stumble into should we get hotline calls.” Her instruction to her staff stemmed from her desire to protect those under her supervision from getting into trouble with management (Defendant LYON) and potentially Governor Snyder’s Office. Given the tense environment in which she was working, akin to “walking on eggshells,” her decision to provide this direction to her staff was a tactical one. Additionally, Corrine Miller had suggested to her that if the Flint River water was the cause of the disease, it would be bad or embarrassing for Governor Snyder, because that decision had been made under emergency management.

Linda Dykema will also testify that on September 28, 2015, in response to Dr. Mona Hanna-Attisha’s published blood lead testing results, Defendant LYON asked his staff for “an analysis of the Virginia Tech/Hurley data and their conclusions.” He wanted “to make a strong statement with a demonstration of proof that the lead blood levels seen are not out of the ordinary and are attributable to seasonal fluctuations” without reference to any empirical evidence or substantiation.

21. **Harvey Hollins III**, Director of Governor Snyder’s Office of Urban Affairs and Initiatives, will testify that on March 13, 2015, he received an email from Brad Wurfel, Public Information Officer of the MDEQ, advising Hollins that his staff became aware of a Legionnaires’ Disease outbreak in Genesee County in December 2014. Brad Wurfel also stated that “[a]t a January meeting with area hospitals, [Michigan Department of Community Health], [M]DEQ and others, Defendant LYON reportedly directed the county health folks, in terms not uncertain, to get this done as a priority.” Harvey Hollins will testify that even though he was informed of the outbreak in March 2015, he assumed the appropriate Department Directors would have informed Governor Snyder.
22. **Jay Fiedler**, Manager of the Surveillance and Infectious Disease Epidemiology Section of the MDHHS, will testify that information about the Legionnaires’ Disease outbreak should have been released to the public in March of 2015.
23. **Laurel Garrison**, contact for the Legionellosis Surveillance & Outbreak Response Division at the CDC, will testify that on April 27, 2015, she emailed Suzanne Cupal of the GCHD and Jay Fiedler of the MDHHS, and stated that the leadership at the CDC was “very concerned about this Legionnaires’ Disease outbreak” because it was “one of the largest [they] know of in the past decade, and community-wide, and in [their] opinion and experience, it needs a comprehensive investigation.” At the end of the email, Garrison offered field assistance in the form of an Epi-Aid, which was declined by the MDHHS.
24. **Dennis Muchmore**, Governor Snyder’s former Chief of Staff, will testify that on July 22, 2015, he attended a meeting with Harvey Hollins, Dr. Laura Sullivan, and Reverends Alfred Harris, Wallace Hill, and Allen Overton. During this meeting, Dennis Muchmore took hand written notes indicating that lead was a big problem in Flint. Following the meeting, Dennis Muchmore emailed Defendant LYON stating that the people of Flint were “concerned . . . about the lead level studies they are receiving from the [M]DEQ samples,” that they are “getting blown off by us” and the citizens “are scared and worried about the health impacts.” Dennis Muchmore then asked Defendant LYON to personally look into the citizen’s concerns.
25. **Tim Becker**, former Deputy Director of the MDHHS, will testify that while Defendant LYON was on temporary leave, he was the interim Director of the MDHHS from February to March of 2016. During his time as Director, Becker gave public notice of a health hazard when plastics fluorinated carbons (PFCs) were seeping into the water table at Wurtsmith Air Force Base. Without definitively knowing that citizens were being affected by the PFCs, Becker notified the public because of the “risk posed.”

Tim Becker will also testify that he believed Defendant LYON learned about the Legionnaires' Disease outbreak one day before Governor Snyder publicly announced Genesee County's Legionnaires' Disease outbreak on **January 13, 2016**. Specifically, on January 12, 2016, Becker received a final report depicting either the 2014 or 2015 outbreak. After reviewing the report, he brought it to Defendant LYON and Defendant LYON stated that they needed to tell Governor Snyder the information about the outbreak immediately.

26. **Jarrold Agen**, Governor Snyder's former Chief of Staff, provided testimony that in December 2015, Harvey Hollins called him after Hollins attended a Flint Water Advisory Task Force meeting. Harvey Hollins advised Jarrod Agen that the Legionnaires' Disease outbreak was discussed at the meeting. On January 11, 2016, Jarrod Agen called a meeting at which the Legionnaires' Disease outbreak was an agenda item. Jarrod Agen asked Defendant LYON to look into the outbreak. On January 13, 2016, Jarrod Agen called Defendant LYON and asked if he had any results about the outbreak. Defendant LYON stated that there was indeed an outbreak, that there was reason to be concerned, and that Governor Snyder should know. Jarrod Agen met with Governor Snyder on January 13, 2016, and told Governor Snyder what Defendant LYON said about the Legionnaires' Disease outbreak. Governor Snyder made a public announcement disclosing the Legionnaires' Disease outbreak later that day.
27. The Office of Special Counsel has sworn testimony from a member of Governor Snyder's Cabinet that on January 11, 2016, the cabinet member was in a meeting with Defendant LYON, Eden Wells, Governor Snyder, Keith Creagh, and others. At this meeting, Defendant LYON and Eden Wells were discussing the Legionnaires' Disease outbreak amongst themselves. Others in that meeting overheard their conversation and inquired further into the details of the outbreak. Defendant LYON acknowledged that there was a Legionnaires' Disease outbreak, but explained that it was isolated to one healthcare institution.
28. **Julie Borowski**, Compliance Director at McLaren Hospital in Flint, will testify that on February 14, 2017, McLaren received a letter from Defendant LYON ordering the hospital to correct conditions because "McLaren Flint's water system is a nuisance, unsanitary condition, or cause of illness," or they would shut the hospital down. McLaren has always been in compliance with regulations and has followed all demands from the MDHHS. Julie Borowski will also testify that she and her colleagues believe that Defendant LYON is wrongfully attempting to intimidate McLaren and suggest that it is the cause of the Legionnaires' Disease outbreak.
29. **Shawn McElmurry**, Associate Professor of Civil Engineering at Wayne State University, will testify that in January of 2016, he was contacted by Harvey Hollins of Governor Snyder's Office and was asked to conduct research into whether Flint's switch in drinking water source caused the Legionnaires' Disease outbreak. Shawn McElmurry put together a research team known as the Flint Area Community and Environmental Partnership (FACHEP). In early summer 2016 meeting Shawn McElmurry had a meeting with Dr. Paul Kilgore, Defendant LYON, and Governor Snyder's Senior Advisor, regarding increased surveillance of the Legionnaires' Disease outbreak since they did not yet know the source of the outbreak. Defendant LYON indicated that the surveillance was something they could not afford. Dr. Kilgore responded to Defendant LYON that the decision he was making could cause more people to die. Defendant LYON responded that he "**couldn't save everyone.**" On August 12, 2016, Shawn McElmurry attended a Flint Water Inter-Agency Coordinating Committee meeting. After the meeting, Shawn McElmurry had a discussion with Defendant LYON, MDEQ Director Keith Creagh, Chief Medical Executive of Michigan, Eden Wells, and others. Defendant LYON directed Shawn McElmurry to explain the samples he was collecting, including the samples from Flint resident's water filters. Defendant LYON questioned the scientific value of Shawn McElmurry's study and stated that Shawn McElmurry had to balance the value of finding information and upsetting the public. On December 16,

2016, after a member of Shawn McElmurry's research team, Dr. Marcus Zervos, publicly stated that the research team still had concerns about the water, Shawn McElmurry received a phone call from a Senior Advisor to Governor Snyder. The advisor told Shawn McElmurry that he "needed to get on message," that the statement made by Dr. Marcus Zervos made his boss "very unhappy," and threatened to call Wayne State University's President Roy Wilson and to pull funding for his research. In a February 2017 meeting with Shawn McElmurry, Defendant LYON, and Eden Wells, Shawn McElmurry was directed to stop his retrospective analysis because it "proved problematic."

30. **Dr. Paul Kilgore**, Associate Professor at Wayne State University's School of Pharmacy, will testify that in a 2016 meeting with Shawn McElmurry, Defendant LYON, and Governor Snyder's Senior Advisor, Defendant LYON and the Senior Advisor objected to Paul Kilgore and Shawn McElmurry's research. Paul Kilgore explained the necessity of their research because they still did not know the source of the outbreak, and more people could die. Defendant LYON responded that "**they have to die of something.**"

Further, Paul Kilgore will testify that, with the information available to the MDHHS, a Legionnaires' Disease outbreak should have been publicly declared in October 2014.

31. **Dr. Janet Stout**, President and Director of Special Pathogens Laboratory at the University of Pittsburgh, will testify that Flint's source water change and the subsequent management of the municipal water system caused conditions to develop within the municipal water distribution system that promoted legionella growth and dispersion, amplification, and the significant increase in cases of Legionnaires' Disease in Genesee County in 2014 and 2015. Further, that there is currently no evidence or information that demonstrates that the water system at McLaren-Flint hospital is currently at a greater risk for colonization or amplification of legionella than other comparable buildings in Flint.
32. **Governor Rick Snyder**, Governor of the State of Michigan, testified in front of the United States Congress on March 17, 2016 and stated the following in regards to the Legionnaires' Disease outbreak: "That was clearly a case where the MDHHS should have done more to escalate the issue to get it visible to the public and to me."

#### **THE MICHIGAN JOINT SELECT COMMITTEE ON THE FLINT WATER EMERGENCY**

33. On April 25, 2016, Defendant LYON appeared before the Joint Select Committee on the Flint Water Emergency. Prior to this appearance and pursuant to the Joint Select Committee's subpoena power, Defendant LYON submitted formal responses to Joint Select Committee questions sent out on April 20, 2105. During the April 25<sup>th</sup> Joint Select Committee session, the members of the committee repeatedly referred to the written responses Defendant LYON submitted.
34. During questioning conducted by Senator Jim Ananich, the following questions were posed to Defendant LYON who provided the following response:

Q: Does your department do any regular reports about diseases in the state for anyone in the Governor's office? And if so, what are those reports called and who gets them?

A: I'm not aware that we provide regular reports into the executive office about diseases. There are many statutory requirements and programmatic requirements that we have. But generally we try to handle those within the Department of Health and Human Services

Q: So none of those reports that you know of, legionella or others, are provided to the Governor's office?

A: I did not – through the time frame before January of this year, I did not send any formal reports, nor were any prepared, for the purpose of informing the executive office, no.

35. The testimony continued as follows:

Q: Couldn't Dr. [Matthew] Davis have been aware of both threats? [Referring to ebola and legionella.] And if he wasn't aware of legionella outbreak in 2014, whose decision was it not to tell him?

A: Well, I think that goes right back to what I said about the internal communications issue. And we're looking at that and that's a part of our investigation. Certainly... Certainly we weren't as aware as we could have been about the legionella outbreak that was going on in Genesee County.

36. During questioning conducted by Representative Edward Canfield, the following question was posed to Defendant LYON who provided the following response:

Q: And so my question to you is are you aware of any [M]DHHS memos or anything that were - discussions that were made, that would have restricted someone from the Genesee Department of Community Health to - or Health Department to contact the CDC?

A: I've read the email that's been reported to have done that, and I also – I think it's also important to note that we have six CD[C] staff embedded within the Department of Health and Human Services that help us with investigations.

We were in very regular contact with the Genesee County Health Department about any requests that they needed help with and what they were asking for, including - and especially around that time - I believe the development of the questionnaire that was going to be used in the community to try to assess what the potential exposure to legionella was.

What...What CDC had – CDC is brought in generally at the request of the state departments, as a whole. So we did not block them from making that contact, but what was said was with - in using CDC's guidance on this, is that those requests should come from the state.

And certainly we were sharing information about this with CDC as well.

37. During questioning conducted by Senator Joe Hune, the following question was posed to Defendant LYON who also provided the following response:

Q: Question number 9, in your response, Director Lyon to Senator Stamas' questions, question number 9 is "when does the department become involved in a public drinking water problem?" Your response is "our involvement is typically triggered by a request from another State agency, from a federal agency, the EPA, from a local health department, or from a private citizen." So, was your

involvement too slow?

A: From my perspective, I think we didn't have enough information to really act - the first that I became aware of potentially significant health-related issues, it was brought to my attention by Dennis Muchmore's email, and certainly we looked into our information at that point, did an analysis that was later proved to be insufficient to really address what was happening in Flint.

### CONCLUSION

The investigation has shown that Defendant LYON received notice of a deadly Legionnaires' Disease outbreak in Genesee County at least one year before he informed the public. As the Director of the MDHHS, he has a duty to notify the public of any and all serious health concerns. After being informed warned about a potentially fatal health risk, Defendant LYON deliberately failed to inform the public of a deadly Legionnaires' Disease outbreak, which resulted in the death of Robert Skidmore. Furthermore, Defendant LYON participated in covering up the source of Genesee County's Legionnaires' Disease outbreak by repeatedly attempting to prevent an independent researcher from looking into the cause of the outbreak.

### OFFICE OF SPECIAL COUNSEL



### RECOMMENDATIONS

<b>IN CUSTODY:</b> <b>NO</b>	FLINT WATER INVESTIGATION	<b>Date:</b> 06/14/2017	<input type="checkbox"/> <b>Further Investigation Ordered</b> <input type="checkbox"/> <b>Further Investigation Completed</b>
<b>I RECOMMEND THE ISSUING OF A WARRANT AGAINST:</b>			<b>MISDEMEANOR</b>

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