

ORIGINAL

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF GENESEE

WILLIE BROWN, individually and on
behalf of others similarly situated,

19-113245
Case No. 19- -CK

Plaintiffs,

Judge: Richard Yuille

v.

CITY OF FLINT,

A TRUE COPY
GENESEE COUNTY CLERK


Defendant.

Loyst Fletcher, Jr. (P29799)
LOYST FLETCHER, JR. & ASSOCIATES
Attorney for Plaintiff
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Flint, MI 48502
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FILED
2019 AUG 29 A 10:46
GENESEE COUNTY CLERK
BY DEPUTY CLERK


PRIOR ACTION CERTIFICATION

There are numerous civil actions between Defendant, City of Flint
by other plaintiffs that arise out of the transaction or occurrence
alleged in the Complaint, and all have been assigned to this Court
and are known as: "In Re Flint Water Litigation"


Loyst Fletcher, Jr. (P29799)

COMPLAINT AND JURY DEMAND

PLAINTIFF, WILLIE BROWN, individually and on behalf of others similarly situated, by
his attorney, Loyst Fletcher, Jr. & Associates:


2019113245CK

NATURE OF THIS ACTION

1. The City of Flint billed and collected monies from its water customers for water the City knew was unsafe to drink. The City of Flint recognized that it had billed for unsafe drinking water and by way of credit has refunded approximately 30 million dollars (\$30,000,000.00) to its commercial and residential customers. This action is for the rest of the monies due to the water customers that paid for unsafe water that among others, was not drinkable, nor useful for cooking or bathing.

PARTIES AND JURISDICTION

2. The amount in controversy is in excess of \$25,000.00.
3. Plaintiff, Willie Brown is a Flint residential water customer, of Genesee County, Michigan.
4. Defendant, City of Flint is a municipal corporation established in Genesee County, Michigan.

ALLEGATIONS AND STATEMENTS OF FACTS

5. In §46-16 of the Flint Code of Ordinances, "consumer" is defined as:
- "The person making application for water service and receiving the benefit of water service or who is legally liable for the payment of bills for the water service." §46-16(a) of the Flint Code of Ordinances.
6. Plaintiff, Willie Brown is and was at all times since April 25, 2014, a consumer within the meaning of Flint ordinance §46-16(a).
7. On or about April 25, 2014, Defendant City of Flint began using the Flint River as its source of water.
8. Flint River water is corrosive.

9. Because Flint River water was corrosive, it was necessary for Defendant City of Flint to provide corrosion-control treatment to the water it sold to Plaintiff and the members of the Class to prevent lead and other toxins from leaching into the water.

10. In addition, Defendant City of Flint was required by applicable law including the regulations in 40 CFR, Part 141 to provide corrosion-control treatment to the water it sold to Plaintiff and the members of the Class.

11. Defendant City of Flint did not provide corrosion-control treatment to the Flint River water it sold to Plaintiff and the members of the Class.

12. Because Defendant City of Flint did not provide corrosion-control treatment to the Flint River water, water supply pipes were damaged by corrosion and lead and other toxins leached into the water as a result, rendering the water unsafe for use.

13. On or about October 16, 2015, Defendant City of Flint ceased using the Flint River as a source of its water.

14. Because water supply pipes were damaged by corrosion, lead and other toxins continued to leach into the water that was sold to Plaintiff and the members of the Class by Defendant City of Flint.

15. Defendant City of Flint has billed and continues to bill Plaintiff and the members of the Class for the water it has sold to them even though it contains lead and other toxins.

16. Defendant City of Flint failed to disclose that the water sold by it to Plaintiff and the members of the Class was not safe for use, concealed that fact and/or misrepresented that it was safe for use after complaints surfaced.

17. To the extent that Plaintiff and the members of the Class may have accepted water sold by Defendant City of Flint on and after April 25, 2014, their acceptance was reasonably

induced by the difficulty of discovery that it was not safe for use and because Defendant City of Flint failed to disclose that the water received by Plaintiff and the members of the Class was not safe for use, concealed that fact and/or misrepresented that it was safe for use when complaints surfaced.

18. That Defendant City of Flint knowingly and intentionally caused the contract to be breached.

19. That as a direct result of said breach, Plaintiffs have been damaged to the extent of payments for drinkable water that was undrinkable.

20. That Plaintiffs were unable to mitigate their damages under threat of a water shutoff.

ALLEGATIONS AS TO CLASS

21. This action is brought by Plaintiffs as a class action solely as to the issue that the City of Flint admittedly breached its contract with Plaintiffs in that the City has failed to provide drinkable water to Plaintiffs from April 2014 to present.

22. There are approximately 40,000 households and 20,000 businesses. The exact number of members of the Class is unknown, but is ascertainable and known to be approximately 31,000; of those residents and 20,000 businesses that have each paid for water as submitted to them by the City.

23. That there are common questions of law and facts in this action as it relates to the rights of each member of the class and the relief sought is common to the entire class.

24. The claims of Plaintiffs' Representatives of the class are typical of the claims of the class, in that the claims of all members of the class including the herein named Plaintiffs, are the

same and there are no conflicts between any individually named Plaintiff and any other member of the class.

25. This action is properly maintained as a class action in that the prosecution of separate actions by individual members of the class identified herein would create risk of inconsistent/varying adjudication respecting individual members.

26. The named Plaintiff is the representative for the class and is able to and will fairly and adequately protect the interests of the class.

27. That while each class members' damages may differ, their damages are easily quantifiable based on Plaintiffs' water bills, a complete history of all are contained on the City of Flint computer system and may be proved by way of summary at trial; i.e. the value of drinkable water versus non-drinkable water is readily determinable as to this class, with or without expert testimony.

COUNT I

BREACH OF CONTRACT

28. Plaintiffs incorporate by reference the above paragraphs as though more fully set forth herein.

29. The City of Flint directly and indirectly has admittedly breached or caused to be breached the contractual obligation to supply the Plaintiffs drinkable water.

30. Each of the Plaintiffs have paid for drinkable water for or been billed for the entire period in question or a portion thereof and continue to do so.

31. That as a result of the admitted breach of the Defendant, Plaintiffs have been damaged to the extent of the payment for drinkable water that they were advised by Defendant was drinkable, then advised by the Defendant not to drink and which was undrinkable.

32. The damages herein are separate and distinct from the "In Re Flint Water Litigation" as all of those cases allege tort damages.

COUNT II

BREACH OF CONTRACT / UNJUST ENRICHMENT

33. Plaintiffs incorporate by reference the above paragraphs as though more fully set forth herein.

34. The Defendant has received the benefits of the monies paid by Plaintiffs, and have admittedly used said funds for the day to day operation of the City of Flint.

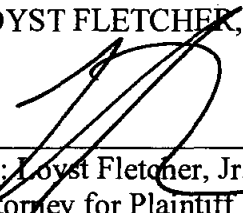
35. The use of said funds without providing drinkable water as promised, constitutes unjust enrichment to the extent of monies collected.

WHEREFORE, PLAINTIFF WILLIE BROWN, individually and on behalf of others similarly situated, requests the following:

- A. That this Court declare that Defendant City of Flint breached its contract with Plaintiff and the members of the Class.
- B. That a judgment be entered in favor of Plaintiff Willie Brown and the members of the Class against Defendant City of Flint in the amount of all payments to Defendant City of Flint by them for water sold by Defendant City of Flint on and after April 25, 2014.
- C. Award costs, interest and attorney fees.
- D. Such other relief as this Court deems just and equitable.

Respectfully submitted,

LOYST FLETCHER, JR. & ASSOCIATES


By: Loyst Fletcher, Jr. (P29799)
Attorney for Plaintiff
718 Beach Street
Flint, MI 48502

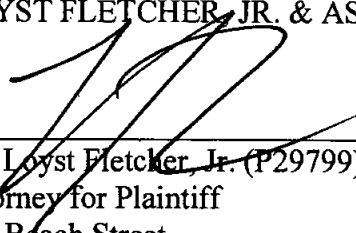
Dated: August 28, 2019

JURY DEMAND

NOW COMES Plaintiff herein, by and through his attorney herein, LOYST FLETCHER, JR. & ASSOCIATES, and hereby demands a Jury Trial in this cause of action.

Respectfully submitted,

LOYST FLETCHER, JR. & ASSOCIATES



By: Loyst Fletcher, Jr. (P29799)
Attorney for Plaintiff
718 Beach Street
Flint, MI 48502

Dated: August 28, 2019