

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re Flint Water Cases.

Judith E. Levy
United States District Judge

_____ /

This Order Relates To:

Carthan, et al. v. Snyder, et al.
Case No. 16-cv-10444

_____ /

**ORDER GRANTING PLAINTIFFS' MOTION FOR RELIEF
FROM JUDGMENT AND VACATING THE COURT'S AUGUST 1,
2018 OPINION AND ORDER [546]**

On August 1, 2018, the Court entered an opinion and order, granting in part and denying in part defendants' motions to dismiss. (Dkt. 546.) Several defendants appealed by right. Others filed motions for reconsideration. The Sixth Circuit docketed the case, but held it in abeyance. Citing to Federal Rule of Appellate Procedure 4(a)(4), the Sixth Circuit notified the parties that jurisdiction remained with this Court until the motions for reconsideration were decided. Subsequently, plaintiffs filed a motion for leave to file an amended complaint under Federal Rule of Civil Procedure 15(a). (Dkt. 620.)

It is true that Rule 15(a) requests to amend the complaint “are frequently filed and, generally speaking, ‘freely’ allowed.” *Leisure Caviar, LLC v. U.S. Fish and Wildlife Serv.*, 616 F.3d 612, 615 (2010). However, “[f]ollowing entry of final judgment, a party may not seek to amend their complaint without first moving to alter, set aside, or vacate judgment pursuant to either Rule 59 or Rule 60 of the Federal Rules of Civil Procedure.” *Morse v. McWhorter*, 209 F.3d 795, 799 (6th Cir. 2002). A plaintiff must meet this threshold requirement before a court can adjudicate his or her motion to amend. *In re Ferro Corp. Deriv. Litig.*, 511 F. 3d 611, 624 (6th Cir. 2008).

With this in mind, the Court now construes plaintiffs’ motion as a joint motion for relief from judgment under Rule 60(b) and a motion for leave to file an amended complaint under Rule 15(a). In practice, these motions would be considered together. *Charles A. Wright, et al.*, 6 Fed. Prac. & Proc. Civ. § 1489 (3d ed.).

Rule 60(b) provides that:

On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under

Rule 59(b); (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or (6) any other reason that justifies relief.

Fed. R. Civ. P. 60. In this case, the Court finds reason that justifies relief.

This case is a Flint water case. It is one of many, and cannot be easily separated or otherwise considered in isolation. The Court has granted leave to co-liaison counsel for the individual plaintiffs to file a similar motion to amend in scores of related cases. Therefore, in the interests of judicial economy, and to avoid piecemeal litigation that will work to the detriment of all parties and the Court, the motion for relief from judgment will be granted. At present, this Court is doing all that it can to address pending motions, coordinate among over 150 lawyers who have filed appearances in these cases, and coordinate between state and federal Flint water litigation in an efficient manner. Adjudicating the pending motion for leave to amend plaintiffs' complaint will allow the Court to handle the litigation in a consistent manner and ensure a just resolution.

Accordingly, **IT IS ORDERED** that plaintiffs' motion for relief from judgment is **GRANTED**, and the Court's August 1, 2018 opinion and order (Dkt. 546) is **VACATED**. In the upcoming days, the Court will schedule a hearing on plaintiffs' motion for leave to file an amended complaint. (Dkt. 620.) As a result of this order, the outstanding motion for reconsideration (Dkt. 560) relating to the Court's August 1, 2018 opinion and order is **DENIED** as moot. The outstanding motions to stay this proceeding pending appeal (Dkt. 603 & 604) are also **DENIED** as moot.

IT IS SO ORDERED.

Dated: November 9, 2018
Ann Arbor, Michigan

s/Judith E. Levy
JUDITH E. LEVY
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on November 9, 2018.

s/Shawna Burns
SHAWNA BURNS
Case Manager