

# **EXHIBIT A**

Approved, SCAO

Original - Court  
1st copy - Defendant

2nd copy - Plaintiff  
3rd copy - Return

STATE OF MICHIGAN JUDICIAL DISTRICT 7th JUDICIAL CIRCUIT COUNTY PROBATE	<b>SUMMONS AND COMPLAINT</b>	CASE NO. 16- -NM <b>16-106150-</b>
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**RICHARD B. YUILLE**  
P-22864

Court telephone no.  
(810) 257-3220

Court address  
900 S. Saginaw Street, Flint, MI 48502

Plaintiff's name(s), address(es), and telephone no(s).  
 JENNIFER MASON, CARL ROGERS II, TERESA SPRINGER, JEFFREY DUSHANE, DEBORAH CULVER, DR. TRISTIN HASSELL, ADAM DILL AND DAVID YEOMAN on behalf of themselves and a class of all others similarly situated,

v

Defendant's name(s), address(es), and telephone no(s).  
 Lockwood, Andrews & Newnam, Inc.  
 C/o National Registered Agents, Inc.  
 1999 Bryan Street, Ste 900  
 Dallas, TX 75201

Plaintiff's attorney, bar no., address, and telephone no.  
 Mark L. McAipine (P35583) John T. Peters, Jr. (P40200)  
 McAipine PC  
 3201 University Drive, Ste 100  
 Auburn Hills, MI 48326  
 T: (248) 373-3700 F: (248) 373-3708

**SUMMONS NOTICE TO THE DEFENDANT:** In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons to **file a written answer with the court** and serve a copy on the other party **or take other lawful action with the court** (28 days if you were served by mail or you were served outside this state). (MCR 2.111(C))
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

Issued <b>JAN 25 2016</b>	This summons expires <b>APR 25 2016</b>	Court clerk <i>Stephanie Davis</i>
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\*This summons is invalid unless served on or before its expiration date. This document must be sealed by the seal of the court.

**COMPLAINT** *Instruction: The following is information that is required to be in the caption of every complaint and is to be completed by the plaintiff. Actual allegations and the claim for relief must be stated on additional complaint pages and attached to this form.*

- This is a business case in which all or part of the action includes a business or commercial dispute under MCL 600.8035.
- Family Division Cases**
- There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.
- An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in \_\_\_\_\_ Court.
- The action  remains  is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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**General Civil Cases**

- There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in \_\_\_\_\_ Court.
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------------	-------	---------

**VENUE**

Plaintiff(s) residence (include city, township, or village) Flint, Michigan	Defendant(s) residence (include city, township, or village) Flint, Michigan
Place where action arose or business conducted Flint, Michigan	

01/25/2016

Date

Signature of attorney/plaintiff

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

**PROOF OF SERVICE**

**SUMMONS AND COMPLAINT**  
Case No. 16- -NM

**TO PROCESS SERVER:** You are to serve the summons and complaint not later than 91 days from the date of filing or the date of expiration on the order for second summons. You must make and file your return with the court clerk. If you are unable to complete service you must return this original and all copies to the court clerk.

**CERTIFICATE / AFFIDAVIT OF SERVICE / NONSERVICE**

<input type="checkbox"/> <b>OFFICER CERTIFICATE</b> I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party (MCR 2.104[A][2]), and that: (notarization not required)	OR	<input type="checkbox"/> <b>AFFIDAVIT OF PROCESS SERVER</b> Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notarization required)
--	----	---

I served personally a copy of the summons and complaint,  
 I served by registered or certified mail (copy of return receipt attached) a copy of the summons and complaint,  
 together with \_\_\_\_\_  
 List all documents served with the Summons and Complaint

\_\_\_\_\_ on the defendant(s):

Defendant's name	Complete address(es) of service	Day, date, time

I have personally attempted to serve the summons and complaint, together with any attachments, on the following defendant(s) and have been unable to complete service.

Defendant's name	Complete address(es) of service	Day, date, time

I declare that the statements above are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Mileage fee	Total fee
\$		\$	\$

Signature \_\_\_\_\_

Name (type or print) \_\_\_\_\_

Title \_\_\_\_\_

Subscribed and sworn to before me on \_\_\_\_\_, \_\_\_\_\_ County, Michigan.  
Date

My commission expires: \_\_\_\_\_ Date Signature: \_\_\_\_\_  
Deputy court clerk/Notary public

Notary public, State of Michigan, County of \_\_\_\_\_

**ACKNOWLEDGMENT OF SERVICE**

I acknowledge that I have received service of the summons and complaint, together with \_\_\_\_\_ Attachments

\_\_\_\_\_ on \_\_\_\_\_  
Day, date, time

\_\_\_\_\_ on behalf of \_\_\_\_\_  
Signature

Approved, SCAO

Original - Court  
1st copy - Defendant

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STATE OF MICHIGAN JUDICIAL DISTRICT 7th JUDICIAL CIRCUIT COUNTY PROBATE	<b>SUMMONS AND COMPLAINT</b>	CASE NO. 16- -NM- <b>16 - 106150 -</b>
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Court address: 900 S. Saginaw Street, Flint, MI 48502

**RICHARD B. YUILLE** Court telephone no.  
**P-22864** (810) 257-3220

Plaintiff's name(s), address(es), and telephone no(s).  
**JENNIFER MASON, CARL ROGERS II, TERESA SPRINGER, JEFFREY DUSHANE, DEBORAH CULVER, TRISTIN HASSELL, ADAM DILL AND DAVID YEOMAN** on behalf of themselves and a class of all others similarly situated.

Defendant's name(s), address(es), and telephone no(s).  
 Lockwood, Andrews & Newnam, P.C.  
 C/o National Registered Agents, Inc.  
 30600 Telegraph Road, Ste 2345  
 Bingham Farms, MI 48025

Plaintiff's attorney, bar no., address, and telephone no.  
**Mark L. McAlpine (P35583) John T. Peters, Jr. (P40200)**  
 McAlpine PC  
 3201 University Drive, Ste 100  
 Auburn Hills, MI 48326  
 T: (248) 373-3700 F: (248) 373-3708

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**VENUE**

Plaintiff(s) residence (include city, township, or village) Flint, Michigan	Defendant(s) residence (include city, township, or village) Flint, Michigan
Place where action arose or business conducted Flint, Michigan	

01/25/2016

Date

*[Signature]*  
Signature of attorney/plaintiff

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

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**SUMMONS AND COMPLAINT**  
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**CERTIFICATE/AFFIDAVIT OF SERVICE / NONSERVICE**

<input type="checkbox"/> <b>OFFICER CERTIFICATE</b> I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party (MCR 2.104[A][2]), and that: (notarization not required)	OR	<input type="checkbox"/> <b>AFFIDAVIT OF PROCESS SERVER</b> Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notarization required)
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I declare that the statements above are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Mileage fee	Total fee
\$		\$	\$

Signature \_\_\_\_\_  
 Name (type or print) \_\_\_\_\_  
 Title \_\_\_\_\_

Subscribed and sworn to before me on \_\_\_\_\_, \_\_\_\_\_ County, Michigan.  
Date

My commission expires: \_\_\_\_\_ Signature: \_\_\_\_\_  
Date Deputy court clerk/Notary public

Notary public, State of Michigan, County of \_\_\_\_\_

**ACKNOWLEDGMENT OF SERVICE**

I acknowledge that I have received service of the summons and complaint, together with \_\_\_\_\_ Attachments  
 \_\_\_\_\_ on \_\_\_\_\_  
Day, date, time  
 \_\_\_\_\_ on behalf of \_\_\_\_\_  
 Signature

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF GENESEE

JENNIFER MASON, CARL ROGERS II,  
TERESA SPRINGER, JEFFREY DUSHANE,  
DEBORAH CULVER, DR. TRISTIN HASSELL,  
ADAM DILL, AND DAVID YEOMAN on  
behalf of themselves and a class of all others  
similarly situated,

Hon.

Case No. 16-106150-NM

Plaintiffs,

RICHARD B. YUILLE  
P-22864

v.

LOCKWOOD, ANDREWS & NEWNAM, P.C., a  
Michigan corporation, and LOCKWOOD,  
ANDREWS & NEWNAM, INC., a Texas  
Corporation,

Defendants.

**A TRUE COPY**  
**Genesee County Clerk**

\_\_\_\_\_  
**McALPINE PC**  
Mark L. McAlpine (P35583)  
John T. Peters, Jr. (P40200)  
Adam T. Schnatz (P72049)  
3201 University Drive, Suite 100  
Auburn Hills, MI 48326

CLASS ACTION COMPLAINT

Plaintiffs Jennifer Mason, Carl Rogers II, Teresa Springer, Jeffrey Dushane, Deborah Culver, Dr. Tristin Hassell, Adam Dill, and David Yeoman, on behalf of themselves and all other similarly situated (the "Class" as defined below), upon personal knowledge as to the fact pertaining to themselves and upon information and belief as to all other matters, and based upon the investigation of counsel, bring this class action for damages and other relief against Defendants Lockwood, Andrews & Newnam, P.C. and Lockwood, Andrews & Newnam, Inc., based on the following allegations.

**PARTIES, JURISDICTION AND VENUE**

1. This lawsuit is brought as a proposed class action against Lockwood, Andrews & Newnam, PC. and Lockwood, Andrews & Newnam, Inc., for professional negligence in connection with their participation in the plan to use the Flint River as a primary source for drinking water in the City of Flint. As a direct and proximate result of Defendants' breaches, the residents of the City of Flint ("Flint"), from April 25, 2014 to the present, have experienced and will continue to experience serious personal injury and property damage.

2. Plaintiffs' representatives are, and at all relevant times were, residents of the City of Flint, Michigan, who, as individuals, parents and minors and as property owners, have been and continue to be exposed to highly dangerous conditions created and caused by Defendants' negligent administration of a plan to place the Flint Water Plant into operation using the Flint River as a primary source.

3. Defendant Lockwood, Andrews & Newnam, PC. is a Michigan professional corporation with its principal place of business in Genesee County, Michigan and Defendant Lockwood, Andrews & Newnam, Inc. is a Texas professional corporation doing business in Genesee County, Michigan. For all intents and purposes both entities were involved in the activities described below and therefore shall be collectively referred to herein as "LAN."

4. The amount in dispute is in excess of \$25,000.00, exclusive of costs and attorney fees and all of the parties have, upon information and belief, personally transacted business in Genesee County, Michigan, such that jurisdiction and venue are properly with this Court.

**CLASS ALLEGATIONS**

5. This action is brought by the named Plaintiffs on behalf of individuals who, as individuals, parents and minors and as property owners, have been and continue to be exposed to

highly dangerous conditions created and caused by Defendant's negligent administration of a plan to place the Flint Water Plant into operation using the Flint River as a primary source.

6. The number of injured individuals who have been exposed to and injured by the highly dangerous conditions (described more thoroughly below) is in the tens of thousands. The number of class members is sufficiently numerous to make class action status the most practical method for Plaintiffs to secure redress for injuries sustained and class wide equitable relief.

7. There are questions of law and fact raised by the named Plaintiffs' claims common to, and typical of, those raised by the Class they seek to represent.

8. The violations of law and resulting harms alleged by the named Plaintiffs are typical of the legal violations and harmed suffered by all Class members.

9. Plaintiff Class representatives will fairly and adequately protect the interest of the Plaintiff class members. Plaintiffs' counsel are unaware of any conflicts of interest between the class representatives and absent class members with respect to the matters at issue in this litigation; the class representatives will vigorously prosecute the suit on behalf of the Class; and the class representatives are represented by experienced counsel.

10. Plaintiffs are represented by attorneys with substantial experience and expertise in complex and class action litigation involving engineering firms and the duty of care.

11. Plaintiffs' attorneys have identified and thoroughly investigated all claims in this action, and have committed sufficient resources to represent the Class.

12. The maintenance of the action as a class action will be superior to other available methods of adjudication and will promote the convenient administration of justice. Moreover, the prosecution of separate actions by individual members of the Class could result in inconsistent or varying adjudications with respect to individual members of the Class.



13. Defendants have acted or failed to act on grounds generally applicable to all Plaintiffs, necessitating legal relief for the Class, including but not limited to an award of damages to fully compensate the Class for all of the damages it has sustained past, present and future.

### **FACTUAL ALLEGATIONS**

14. From 1964 to 2014, Flint water users received their water from Lake Huron via the Detroit Water and Sewerage Department (“DWSD”).

15. During this 50 year span, the Flint water users enjoyed safe, clean, fresh water in their homes, businesses, hospitals and other places of public services.

16. In 2011, Flint government officials commissioned a study by LAN to determine if the Flint River could be safely used by the city as the primary source of drinking water for its more than 31,000 users. A report of the study, entitled *Analysis of the Flint River as a Permanent Water Supply for the City of Flint* (the “2011 Report”), was published in July, 2011.

17. The July 2011 LAN report stated that the water from the Flint River was highly corrosive and could not be used safely without an anti-corrosive agent to prevent lead, copper and other heavy metals from leaching into the water from the lead, copper and iron-based water lines.

18. In early 2013, City of Flint Emergency Manager Ed Kurtz signed an agreement to switch Flint’s primary drinking water source from the DSWD water source to a newly formed Karegondi Water Authority (“KWA”), which was scheduled to become operational sometime in 2016.

19. In June of 2013, Mr. Kurtz authorized action to prepare the Flint Water Treatment Plant (“FWTP”) in anticipation of using the Flint water as the primary water source.

20. On June 26, 2013, Kurtz signed a Resolution authorizing Flint City Officials to enter into a Professional Services contract with LAN for the administration of placing the Flint Water Plant into operation using the Flint River as a primary source.

21. Shortly thereafter, LAN did enter into a Professional Services contract for the administration of placing the Flint Water Plant into operation using the Flint River as a primary source, and LAN is designated as the Design Engineer on the City of Flint's application for a permit for placing the Flint Water Plant into operation using the Flint River as a primary source.

22. Because it had prepared the 2011 report regarding Flint River water, LAN was well aware that without a proper anti-corrosive treatment using the Flint River as a primary source of drinking water would create a condition dangerous to health and property.

23. Contrary to water quality standards and common sense, LAN failed to evaluate the quality of the Flint River water as it came out of the consumers' tap before substituting high quality Detroit water with questionable quality Flint River water.

24. LAN was fully aware that, as a consequence of the failure to use the required and necessary anti-corrosive agent in the Flint River water, the Plaintiffs and the entire Plaintiff Class were being exposed to toxic levels of lead and other metals and chemicals.

25. The Michigan Department of Environmental Quality ("MDEQ") promulgated rules that required Flint to conduct two six-month rounds of testing for lead and copper (July-December 2014 and January-June 2015) in homes that were identified as "Tier 1" sample sites (sites with known lead plumbing and/or service lines), for the presence of lead or other heavy metals.

26. Notwithstanding the MDEQ lead testing rules, corrosion control chemicals should have been used immediately in connection with placing the Flint Water Plant into operation

using the Flint River as a primary source, as corroborated by the December 2015 “Auditor’s Report,” which expressly criticized the MDEQ because it did not confer with or obtain the approval of the EPA when it decided to delay the use of corrosion control chemicals until after the two rounds of monitoring tests.

27. The Auditor’s Report also established that in accordance with the Federal Safe Drinking Water Lead and Copper Rule (“LCR”), all large public water systems, in particular and specifically that of Flint, are required to install and maintain corrosion control treatment for lead and copper water service systems.

28. In the absence of corrosion control treatment, lead levels in the water coming from lead and copper based water systems will rise to unacceptable levels.

29. In connection with its administration of placing the Flint Water Plant into operation using the Flint River as a primary source, LAN failed to demand or ensure the use of corrosion control treatment chemicals even though the LCR required these actions so as to ensure lead free drinking water.

30. The Auditor’s Report also confirmed that the results of the first round of water sampling tests disclosed lead levels in excess of the minimal action levels, i.e. 5 parts per billion (“ppb”).

31. A Michigan Department of Health and Human services (“DHHS”) report on the Blood Lead Level Test Results for children 6 years and younger living in Flint Zip Codes 48501-48507, showed a significant and dangerous spike in the blood lead levels during the second and third quarter on 2014.

32. In the summer of 2014, the Flint area experienced a spike in Legionnaires’ Disease that resulted in 10 deaths in 18 months.

33. Within days after the April 25, 2014 switch, Flint Defendants began receiving complaints from water users, including some or all of the Plaintiffs herein, that the water was cloudy and discolored in appearance and foul in taste and odor.

34. Within weeks after the April 25, 2014 switch, water users, including some or all of the Plaintiffs herein, were reporting to the Flint authorities that they were experiencing hair loss, rashes, vomiting and other physical maladies.

35. Flint water users, having enjoyed decades of safe, clean and fresh water via the Detroit water system, knew almost immediately after the switch to Flint River water that something was not right about this new water supply.

36. By August of 2014, Flint water tested positive for E. coli. and several "boil water" advisories were issued by the City of Flint through September of 2014.

37. During the next eight (8) months, Flint water users expressed their concerns about water quality in multiple ways, including letters, e-mails and telephone calls to Flint and MDEQ officials, the media and through well publicized demonstrations on the streets of Flint.

38. In August of 2014, Flint violated the National Primary Drinking Water Regulations Maximum Contaminant Level ("MCL") for E. Coli bacteria.

39. In September 2014, Flint again violated the National Primary Drinking Water Regulations for MCL.

40. In November of 2014, LAN was on actual notice of the need to assess the factors contributing to high Trihalomethane ("THHM") levels following the water source change.

41. Beginning almost immediately after the Flint River became the primary source of water for the Flint users, the MDEQ and Flint officials were aware of elevated and unlawful levels of Trihalomethanes ("TTHM").

42. After about 7 months of elevated TTHM levels, Flint water users belatedly received a notice in January 2015 from the City of Flint stating that the water was not in compliance with the Federal Safe Drinking Water Act because unlawful levels of TTHMs.

43. In late 2014 or early 2015, a dramatic spike in elevated blood lead levels in Flint's youngest children in the third quarter of 2014 was identified by the Michigan Department of Health and Human Services ("MDHHS").

44. This aforementioned spike meant that by the third quarter of 2014, the percent of Flint children with known elevated blood lead level tests rose from 2.5% to about 7%.

45. This upward spike coincided precisely with the exposure of Flint's children to the toxic water of the Flint River, in their homes, schools and other public locations.

46. That the aforementioned spike occurred at the time of the exposure to the Flint River water, constituted clear and certain notice that a major health emergency confronted the children of Flint.

47. In the summer of 2014, a dramatic spike in Legionnaires' disease occurred in Flint that resulted in 10 deaths in 18 months.

48. That the aforementioned spike occurred at the time of the exposure to the Flint River water and constituted clear and certain notice that a major health emergency confronted the children of Flint.

49. On or about August of 2015, Dr. Mona Hanna-Attisha, a pediatrician from Hurley Hospital in Flint, produced a similar study showing a similar spike in elevated blood lead levels for the children of Flint.

50. Another example of the irrefutable nature of the evidence that the water was unfit for human exposure and consumption was the highly publicized media report in October 2014

that General Motors refused to continue using Flint River water in its manufacturing facilities due to the highly corrosive nature of the water that was ruining its parts and production machinery.

51. On or about May 6, 2015, employees from EPA Region 5 arrived in Flint and began sampling the water for elevated lead levels, which disclosed dangerously high lead levels.

52. The EPA also found lead levels from the Flint River twice that required in order to classify as hazardous waste.

53. On or about June 24, 2015, EPA representative Miguel Del Toral wrote a detailed memo entitled "High Lead Levels in Flint, Michigan-Interim Report," outlining numerous dangers and hazards associated with the water being pumped from the Flint River, including unacceptable levels of lead.

54. According to Mr. Del Toral's memo, because Flint has failed to use the same chemical treatments for lead and copper after it made the switch in 2014, corroded plumbing was likely leaching lead ("In the absence of any corrosion control treatment, lead levels in drinking water can be expected to increase.")

55. During the spring and summer of 2015, Professor Marc Edwards ("Professor Edwards") and other experts from Virginia Tech tested 277 drinking water samples in Flint and found that 10% of the samples had lead levels of 25 parts per billion (ppb), substantially in excess of the federal action level of 15 ppb.

56. Professor Edwards was quoted as saying "I have never in my 25-year career seen such outrageously high levels going into another home in the United States."

57. Professor Edwards also determined that the Flint River water was 19 times more corrosive than the water pumped from Lake Huron by the Detroit water system and that without

corrosion control treatment, lead was leaching out from the lead based service lines at alarming rates.

58. On or about September 2, 2015, Professor Edwards published the results of his studies described above.

59. In addition, Dr. Hanna-Attisha of Hurley Hospital demonstrated and publicly disclosed a dramatic and dangerous spike in elevated blood lead levels in a large cohort of Flint children corresponding with the time of exposure to the highly corrosive Flint River water. Her disturbing results were published in August 2015.

60. Also on September 29, 2015, the Genesee County Health Department issued a "Public Health Advisory for People Using the Flint City Water Supply with the Flint River as the Source," ("Advisory"), which stated in pertinent part: "recent data provided by Hurley Hospital Researchers has indicated that a significant increase in blood lead levels has occurred in children since the switch to Flint River water. The County Health Officer has requested that the Michigan Department of Health and Human Services (MDHSS) provide the County specific data to support its claim that state data is more comprehensive and does not show a significant increase.

61. On or about October 8, 2015, Flint's Eisenhower and Freeman Elementary Schools, along with Brownell/Holmes STEM Academies exceeded 15 ppb for lead -- the safety standard set by the federal government. Students and staff were ordered to drink bottled water only.

62. Among the other serious harm caused by the conduct alleged herein, the prolonged exposure of the highly corrosive water without adequate anti-corrosive agents has

irreparably damaged the approximately 15,000 sets of lead and copper plumbing throughout the City of Flint, all of which must now be replaced.

**PROFESSIONAL NEGLIGENCE**

63. Plaintiffs incorporate the preceding paragraphs as though fully stated herein.

64. LAN owed a duty to Plaintiffs, as residents and property owners in the City of Flint, to exercise that degree of care consistent with the greater degree of knowledge and skill possessed by design professionals, as well as an ethical duty to report to public authorities the dangers posed to public health and property that would result from the failure to install a proper anti-corrosive treatment when using the Flint River as a primary source of drinking.

65. LAN also owed a duty to Plaintiffs to notify the proper authorities of unethical or illegal practices of others whose actions or decisions posed threats to public health and property that would result from the failure to install a proper anti-corrosive treatment when using the Flint River as a primary source of drinking.

66. Plaintiffs had a right to and did rely upon LAN's professional expertise and ethical obligations in connection with LAN's administration of placing the Flint Water Plant into operation using the Flint River as a primary source.

67. LAN's duties to Plaintiffs included, but were not limited to, the duty to properly administer the placing the Flint Water Plant into operation using the Flint River as a primary source in such a manner that this would not endanger the health and property of Plaintiffs, and take other actions consistent with the greater degree of knowledge and skill possessed by design professionals, and the duty to report to public authorities the dangers posed to public health and property that would result from the failure to install a proper anti-corrosive treatment when using the Flint River as a primary source of drinking.



68. As a direct result of LAN so negligently and carelessly administering the placing of the Flint Water Plant into operation using the Flint River as a primary source and failing to report to public authorities the dangers posed to public health and property that would result from the failure to install a proper anti-corrosive treatment when using the Flint River as a primary source of drinking, Plaintiffs and Plaintiff Class members have experienced serious and in some cases life threatening and irreversible bodily injury.

69. Plaintiffs and Plaintiff Class members have and will also incur substantial economic losses in the nature of medical expenses and lost wages.

70. Plaintiffs and Plaintiff Class members are also entitled to an award of non-economic 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 and similar symptoms.

71. Finally, Plaintiffs and Plaintiff Class members have experienced property damage to the 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.

#### **RELIEF REQUESTED**

Accordingly, Plaintiffs request the following relief from the court:

- a. An order certifying this case as a Class Action;
- b. An order for an award of full compensatory damages for those injuries and damages, including diminution of the value of property values, sustained by class representatives and all class members;
- c. An order for an award of actual reasonable attorney fees and litigation expenses;

d. An order for all such other relief the court deems reasonable, equitable and just under the circumstances.

**Jury Trial**

Plaintiffs demand a trial by jury of all claims so triable.

Respectfully submitted,

MCALPINE PC

By: 

Mark L. McAlpine (P33583)  
Ted Peters (P40220)  
Adam T. Schnatz (P72049)  
3201 University Drive, Suite 100  
Auburn Hills, Michigan 48326  
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[tpeters@mc Alpinepc.com](mailto:tpeters@mc Alpinepc.com)  
[atschnatz@mc Alpinepc.com](mailto:atschnatz@mc Alpinepc.com)  
Attorneys for Plaintiffs

Dated: January 25, 2016

Approved, SCAO

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3rd copy - Return

<b>STATE OF MICHIGAN</b> JUDICIAL DISTRICT 7th JUDICIAL CIRCUIT COUNTY PROBATE	<b>SUMMONS AND COMPLAINT</b>	<b>CASE NO.</b> 16-106150-NM
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Court address: 900 S. Saginaw Street, Flint, MI 48502  
 Court telephone no. (810) 257-3220

Plaintiff's name(s), address(es), and telephone no(s).  
**JENNIFER MASON, CARL ROGERS II, TERESA SPRINGER, JEFFREY DUSHANE, DEBORAH CULVER, TRISTIN HASSELL, ADAM DILL AND DAVID YEOMAN** on behalf of themselves and a class of all others similarly situated,  
 Plaintiff's attorney, bar no., address, and telephone no.  
**Mark L. McAlpine (P35583) John T. Peters, Jr. (P40200)**  
 McAlpine PC  
 3201 University Drive, Ste 100  
 Auburn Hills, MI 48326  
 T: (248) 373-3700 F: (248) 373-3708

v

Defendant's name(s), address(es), and telephone no(s).  
**Leo A. Daly Company**  
 c/o Resident Agent: **Leo A. Daly, III**  
 8600 Indian Hills Drive  
 Omaha, NE 68114-0000

**SUMMONS NOTICE TO THE DEFENDANT:** In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons to **file a written answer with the court** and serve a copy on the other party **ortake other lawful action with the court** (28 days if you were served by mail or you were served outside this state). (MCR 2.111(C))
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

Issued	This summons expires	Court clerk
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\*This summons is invalid unless served on or before its expiration date. This document must be sealed by the seal of the court.

**COMPLAINT** *Instruction: The following is information that is required to be in the caption of every complaint and is to be completed by the plaintiff. Actual allegations and the claim for relief must be stated on additional complaint pages and attached to this form.*

- This is a business case in which all or part of the action includes a business or commercial dispute under MCL 600.8035.
- Family Division Cases**
- There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.
- An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in \_\_\_\_\_ Court.  
 The action  remains  is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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**General Civil Cases**

- There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in \_\_\_\_\_ Court.  
 The action  remains  is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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**VENUE**

Plaintiff(s) residence (include city, township, or village) Flint, Michigan	Defendant(s) residence (include city, township, or village) Omaha, NE
Place where action arose or business conducted Flint, Michigan	

02/18/2016

Date

\_\_\_\_\_  
 Signature of attorney/plaintiff

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

**PROOF OF SERVICE**

**SUMMONS AND COMPLAINT**  
Case No. 16-106150-NM

**TO PROCESS SERVER:** You are to serve the summons and complaint not later than 91 days from the date of filing or the date of expiration on the order for second summons. You must make and file your return with the court clerk. If you are unable to complete service you must return this original and all copies to the court clerk.

**CERTIFICATE/AFFIDAVIT OF SERVICE/NONSERVICE**

<input type="checkbox"/> <b>OFFICER CERTIFICATE</b> I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party (MCR 2.104[A][2]), and that: (notarization not required)	OR	<input type="checkbox"/> <b>AFFIDAVIT OF PROCESS SERVER</b> Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notarization required)
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I served personally a copy of the summons and complaint,  
 I served by registered or certified mail (copy of return receipt attached) a copy of the summons and complaint, together with \_\_\_\_\_  
 List all documents served with the Summons and Complaint

\_\_\_\_\_ on the defendant(s):

Defendant's name	Complete address(es) of service	Day, date, time

I have personally attempted to serve the summons and complaint, together with any attachments, on the following defendant(s) and have been unable to complete service.

Defendant's name	Complete address(es) of service	Day, date, time

I declare that the statements above are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Mileage fee	Total fee
\$		\$	\$

Signature \_\_\_\_\_  
 Name (type or print) \_\_\_\_\_  
 Title \_\_\_\_\_

Subscribed and sworn to before me on \_\_\_\_\_, \_\_\_\_\_ County, Michigan.  
Date

My commission expires: \_\_\_\_\_ Date Signature: \_\_\_\_\_  
Deputy court clerk/Notary public

Notary public, State of Michigan, County of \_\_\_\_\_

**ACKNOWLEDGMENT OF SERVICE**

I acknowledge that I have received service of the summons and complaint, together with \_\_\_\_\_ Attachments

\_\_\_\_\_ on \_\_\_\_\_  
Day, date, time

Signature \_\_\_\_\_ on behalf of \_\_\_\_\_

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF GENESEE

JENNIFER MASON, CARL ROGERS II,  
TERESA SPRINGER, JEFFREY DUSHANE,  
DEBORAH CULVER, DR. TRISTIN HASSELL,  
ADAM DILL, and DAVID YEOMAN on behalf  
of themselves and a class of all others similarly  
situated,

Hon. Richard B. Yuille

Case No. 16-106150-NM

Plaintiffs,

v.

LOCKWOOD, ANDREWS & NEWNAM, P.C., a  
Michigan corporation, LOCKWOOD,  
ANDREWS & NEWNAM, INC., a Texas  
Corporation, and LEO A. DALY COMPANY, a  
Nebraska corporation,

Defendants.

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Mark L. McAlpine (P35583)  
John T. Peters, Jr. (P40200)  
Adam T. Schnatz (P72049)  
**MCALPINE PC**  
3201 University Drive, Suite 100  
Auburn Hills, MI 48326  
(248) 373-3700  
[mlmcalpine@mcalpinepc.com](mailto:mlmcalpine@mcalpinepc.com)  
[tpeters@mcalpinepc.com](mailto:tpeters@mcalpinepc.com)  
[atschnatz@mcalpinepc.com](mailto:atschnatz@mcalpinepc.com)  
Attorneys for Plaintiffs

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**FIRST AMENDED CLASS ACTION COMPLAINT**

Plaintiffs Jennifer Mason, Carl Rogers II, Teresa Springer, Jeffrey Dushane, Deborah Culver, Dr. Tristin Hassell, Adam Dill, and David Yeoman (collectively, "Plaintiffs" or "Plaintiff Class Representatives"), on behalf of themselves and all other similarly-situated (the "Class" or

“Class Members” as defined below), upon personal knowledge as to the facts pertaining to themselves, upon information and belief as to all other matters, and based upon the investigation of counsel, bring this class action for damages against Defendants Lockwood, Andrews & Newnam, P.C. (“LAN PC”), Lockwood, Andrews & Newnam, Inc. (“LAN Inc.”) (collectively, LAN PC and LAN Inc. shall be referred to as “LAN”), and Leo A. Daly Company (“LAD”) (collectively, LAN and LAD shall be referred to as “Defendants”), based on the following allegations.

### **PARTIES, JURISDICTION AND VENUE**

1. This lawsuit is brought as a proposed class action against Defendants for professional negligence in connection with their participation in the plan to use the Flint River as the primary source of drinking water for the City of Flint, Michigan (“Flint”). As a direct and proximate result of Defendants’ breaches, the residents of Flint, from April 25, 2014 to the present, have experienced and will continue to experience serious personal injury and property damage.

2. Plaintiffs’ representatives, at all relevant times, were residents of Flint who, as individuals, parents of minors and as property owners, have been and continue to be exposed to highly dangerous conditions created and caused by Defendants’ negligent administration of a plan to place the Flint Water Treatment Plant (“FWTP”) into full-time operation for drawing water from the Flint River.

3. LAN PC is a Michigan professional corporation with its principal place of business located at 1311 S. Linden Road, Suite B, Flint, Michigan 48532. At that location, LAN PC held itself out to the world as a LAD company. Upon information and belief, LAN PC was incorporated in 2008 by LAN Inc. after it was retained to conduct studies and reports of a new water supply that was being developed for Flint, Genesee County, Lapeer County and Sanilac County. Upon further

information and belief, the vast majority of the services provided by LAN PC, at all relevant times, were conducted at LAN Inc.'s Chicago, Illinois location.

4. LAN Inc. is a Texas corporation with its principal place of business in Houston, Texas. At all relevant times, LAN Inc. conducted business in Genesee County, Michigan through LAN PC. Per its website, LAN Inc.'s Michigan office is located at 1311 S. Linden Road, Suite B, Flint, Michigan 48532.

5. LAD is a Nebraska corporation with its principal place of business in Omaha, Nebraska. Per its website, LAD's "services are extended through [LAN Inc.]."

6. The amount in dispute is in excess of \$25,000.00, exclusive of costs and attorney fees, and all of the parties have, upon information and belief, either resided or transacted business in Genesee County, Michigan, at all times relevant herein such that jurisdiction and venue are properly with this Court.

#### **CLASS ALLEGATIONS**

7. This action is brought by the named Plaintiffs on behalf of the Class who have been and continue to be exposed to highly dangerous conditions created and caused by Defendants' negligent and/or reckless administration of a plan to place the FWTP into full-time operation using the Flint River as the primary water source, and reckless disregard of the safety and health of the citizens of Flint as well as its own professional duties and obligations.

8. The number of injured individuals who have been exposed to and injured by the highly dangerous conditions (described more thoroughly throughout this pleading) is in the tens of thousands. The number of Class Members is sufficiently numerous to make class action the most practical method for Plaintiffs to secure redress for injuries sustained by the Class Members.

9. There are questions of law and fact raised by the claims set forth herein that are common to, and typical of, those raised by the Class Members that Plaintiffs seek to represent.

10. The violations of law and resulting harms alleged by the named Plaintiffs are typical of the legal violations and harms suffered by all Class Members.

11. Plaintiff Class Representatives will fairly and adequately protect the interest of the Plaintiff Class Members. Plaintiffs' counsel are unaware of any conflicts of interest between the Plaintiff Class Representatives and absent Class Members with respect to the matters at issue in this litigation; the Plaintiff Class Representatives will vigorously prosecute the suit on behalf of the entire Class; and the Plaintiffs are represented by experienced counsel.

12. Plaintiffs are represented by attorneys with substantial experience and expertise in complex and class action litigation involving engineering firms and the duty of care.

13. Plaintiffs' attorneys have identified and thoroughly investigated all claims in this action, and have committed sufficient resources to represent the Class.

14. The maintenance of the action as a class action will be superior to other available methods of adjudication and will promote the convenient administration of justice. Moreover, the prosecution of separate actions by individual members of the Class could result in inconsistent or varying adjudications with respect to individual members of the Class.

15. Defendants has acted or failed to act on grounds generally applicable to all Plaintiffs, necessitating legal relief for the Class, including but not limited to an award of damages to fully compensate the Class for all of the damages it has sustained past, present and future.



**GENERAL ALLEGATIONS**

16. The Flint River supplied Flint's drinking water for approximately 50 years until 1964.

17. As early as 1964, the US Geological Survey noted high levels of chloride in the Flint River.

18. From 1964 to 2014, Flint water users received their water from Lake Huron via the Detroit Water and Sewerage Department ("DWSD").

19. During this 50-year span, the Flint water users enjoyed safe, clean, fresh water in their homes, businesses, hospitals and other places of public services.

20. 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.

21. 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 "Source Water Assessment Report for the City of Flint Water Supply – Flint River Emergency Intake", prepared by the U.S. Geological Survey, the Michigan Department of Environmental Quality ("MDEQ") and the Flint Water Utilities Department, was that the Flint River was a very highly sensitive drinking water source that was susceptible to contamination.

22. In 2011, Flint government officials commissioned a study (or studies) by LAN to determine if the Flint River could be safely used by the city as the primary source of drinking water for its more than 31,000 residents and users. One of those studies, entitled "*Analysis of the Flint River as a Permanent Water Supply for the City of Flint*" (the "2011 Report"), which bore LAN's logo, was published in July of 2011.

23. Upon information and belief, this 2011 Report indicated that the water from the Flint River was highly corrosive and could not be used safely without an anti-corrosive agent to prevent lead, copper and other heavy metals from leaching into the water from the lead, copper and iron-based water lines.

24. In early 2013, City of Flint Emergency Manager Ed Kurtz (who was appointed to that position in or around August of 2012) signed an agreement to switch Flint's primary drinking water source from the DWSD to the newly formed Karegnondi Water Authority ("KWA"), which was scheduled to become operational sometime in 2016. Upon information and belief, Flint assumed it would continue to purchase its water from DWSD until the KWA became operational in 2016.

25. DWSD protested Flint joining the KWA and attempted to convince Flint to reconsider switching over to the KWA and continue purchasing its water from the DWSD. Flint declined. In April of 2013, DWSD gave Flint notice that their long-standing water agreement would terminate in April of 2014.

26. On or about June 26, 2013, Mr. Kurtz signed a resolution authorizing Flint to enter into a professional services contract with LAN for the administration of placing the FWTP into full-time operational use, which would draw water from the Flint River as its primary source of water until the completion of the KWA.

27. Flint formally retained LAN as the design engineer for improvements and upgrades to the FWTP, which would ultimately enable the FWTP to operate full-time and provide proper treatment to the water drawn from the Flint River.

28. Upon information and belief, there were no bids submitted by LAN or any other firm for this work, nor were any other firms considered for this work.

29. 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.

30. 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 LAN to present Flint with a proposal that would include engineering, procurement, and construction needs for the project along with cost estimates.

31. Upgrading the FWTP would have its challenges. 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 is expected to 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.

32. 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.

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

34. In April of 2014, LAN, Flint and DEQ officials addressed and discussed optimization for lead, and it was determined that having more data was advisable before implementing an optimization method.

35. LAN 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.

36. The improvement and upgrade plans to the FWTP were approved by MDEQ in April of 2014.

37. On or about April 25, 2014, Flint formally ceased obtaining water from the DWSD and began drawing water from the Flint River through the FWTP.

38. Since LAN was involved in determining whether the Flint River could be safely used as a water source, it was well aware that, without proper anti-corrosive treatment, drawing water from the Flint River and using it as the primary source of drinking water would create a condition dangerous to the health and welfare of the community.

39. Pursuant to the Federal Safe Drinking Water Lead and Copper Rule (the "LCR"), all large public water systems, including Flint, are required to install and maintain corrosion control treatment for lead and copper water service systems. In the absence of such corrosion

control treatment, lead levels in water traveling through a lead and copper-based water system will be present at unacceptable and even dangerous levels.

40. LAN failed to ensure that the upgraded FWTP would treat the water drawn from the Flint River with the proper anti-corrosive chemicals before it was released for consumption and use into the community, which is contrary to water quality standards, the standard of care of similarly-situated and experienced engineers, and common sense.

41. At all relevant times, LAN was fully aware that, as a consequence of any failure to operate the FWTP by using the required and necessary anti-corrosive agents in the water drawn from the Flint River, or failure to report the non-use of these agents to the proper authorities, the Plaintiffs and the entire Class would be exposed to toxic levels of lead and other dangerous and unsafe metals and chemicals.

42. Despite these requirements, corrosion control chemicals were not used when the FWTP began operation and drawing water from the Flint River.

43. LAN either failed to recommend and/or design for the use of corrosion control treatment chemicals during the full-time operation of the FWTP when it drew water from the Flint River, or it failed to demand or ensure the use of corrosion control treatment chemicals once the upgraded FWTP was placed into full-time operation.

44. The danger to the public in not using anti-corrosive treatments when using water from the Flint River as the primary source was or should have been well-known to LAN, as such dangers are well-known within the water treatment community.

45. 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 LAN, an engineering firm that, according

to its website, is 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.”

46. The potential consequences were seemingly, if not recklessly, ignored or not raised with the appropriate officials by LAN.

47. It came (or should have come) as no surprise to a highly reputable civil engineering firm that, within days of the switch, Flint officials began receiving complaints from water users, including some or all of the Plaintiffs herein, that the water was cloudy and discolored in appearance and foul in taste and odor.

48. Within weeks following the April 25, 2014 switch, water users, including some or all of the Plaintiffs herein, were reporting to Flint authorities that they were experiencing hair loss, rashes, vomiting and other physical maladies.

49. Flint water users, having enjoyed decades of safe, clean and fresh water via the DWSD, knew almost immediately after the switch to Flint River water that something was not right about this new water supply.

50. During the next 8 months, Flint water users expressed their concerns about water quality in multiple ways, including letters, e-mails and telephone calls to Flint and MDEQ officials, the media and through well-publicized demonstrations on the streets of Flint.

51. But the residents of Flint – unlike LAN – were unaware of the specific dangers lurking in the water that was being used and distributed by the FWTP.

52. For example, by August of 2014, Flint water tested positive for E. coli., and several “boil water” advisories were issued by Flint through September of 2014. As a result, Flint was

deemed to have violated the National Primary Drinking Water Regulations Maximum Contaminant Level (“MCL”) for E. coli bacteria on at least two separate occasions.

53. Additionally, unsafe levels of Trihalomethane (“TTHM”) were present in the water. Beginning almost immediately after the Flint River became the primary source of water for Flint residents, the MDEQ and Flint officials were aware or should have been aware of elevated and unlawful levels of TTHM.

54. By virtue of its involvement with the FWTP and its continuous work for Flint, LAN likewise knew or should have known of the elevated and unlawful levels of TTHM.

55. In October of 2014, General Motors refused to continue using water from the Flint River in its manufacturing facilities due to the highly corrosive nature of the water that, in turn, was ruining its parts and production machinery. General Motors believed that the corrosive nature of the water was due to high chloride levels.

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

57. After about 7 months of elevated TTHM levels, Flint water users belatedly received a notice in January of 2015 stating that their water was not in compliance with the Federal Safe Drinking Water Act because unlawful levels of TTHM.

58. The biggest danger was the high level of lead in the water. The residents of Flint, including Plaintiffs and the Class Members, initially had no knowledge that the water contained dangerous levels of lead, even though LAN knew or should have known by virtue of its history and involvement with the FWTP, as well as its vast experience with civil engineering relating to water systems.

59. In late 2014 or early 2015, a study by the Michigan Department of Health and Human Services (“MDHHS”) was published that showed a dramatic spike in elevated blood lead levels in Flint’s youngest children. The testing occurred in the Third Quarter of 2014.

60. This aforementioned spike meant that, by the Third Quarter of 2014, the percent of Flint children with known elevated blood lead level tests rose from 2.5% to about 7%.

61. This upward spike coincided precisely with the exposure of Flint’s children to the toxic water of the untreated Flint River, in their homes, schools and other public locations.

62. That the aforementioned spike occurred at the time of the exposure to the Flint River water constituted clear and certain notice that a major health emergency confronted the children of Flint.

63. Furthermore, a dramatic spike in Legionnaires’ disease occurred in Flint that, upon information and belief, resulted in 10 deaths in 18 months. This spike in Legionnaires’ disease, upon information and belief, is attributable, in whole or in part, to the presence of harmful chemicals and substances in the drinking water.

64. On or about May 6, 2015, employees from EPA Region 5 arrived in Flint and began sampling the water for elevated lead levels, which disclosed dangerously high lead levels.

65. The EPA also found that lead levels from the Flint River were twice the limit that would classify Flint River water as hazardous waste.

66. On or about June 24, 2015, EPA representative Miguel Del Toral wrote a detailed memo entitled “*High Lead Levels in Flint, Michigan-Interim Report*,” outlining numerous dangers and hazards associated with the water being pumped from the Flint River, including unacceptable levels of lead. According to Mr. Del Toral’s memo, because there had been a failure to use the same chemical treatments for lead and copper after Flint made the switch in 2014, corroded



plumbing was likely leaching lead (“In the absence of any corrosion control treatment, lead levels in drinking water can be expected to increase”) and making its way to the water taps found in the homes of Flint’s residents, including the homes of the Plaintiffs and the Class Members.

67. During the spring and summer of 2015, Professor Marc Edwards (“Professor Edwards”) and other experts from Virginia Polytechnic Institute and State University (commonly known as “Virginia Tech”) tested 277 drinking water samples in Flint and found that 10% of the samples had lead levels of 25 parts per billion (ppb), substantially in excess of the federal action level of 15 ppb.

68. Professor Edwards was quoted as saying “I have never in my 25-year career seen such outrageously high levels going into another home in the United States.”

69. Professor Edwards also determined that water from the Flint River was 19 times more corrosive than the water pumped from Lake Huron by the DWSD, and that without corrosion control treatment, lead was leaching out from the lead-based service lines at alarming rates and finding its way to the homes of Flint’s residents, including but not limited to the homes of the Plaintiffs.

70. Professor Edwards has stated that the lead leaching into the water was predictable because of the chloride content in the water, but that he “didn’t see anything that proper treatment couldn’t render potable.”

71. On or about September 2, 2015, Professor Edwards published the results of his studies described above.

72. At around the same time, Dr. Hanna-Attisha, a pediatrician at Hurley Hospital demonstrated and publicly disclosed a dramatic and dangerous spike in elevated blood lead levels in a large cohort of Flint children corresponding with the time of exposure to the highly corrosive

Flint River water. She produced her study evidencing these elevated blood lead levels on or about August of 2015.

73. On or about September 29, 2015, the Genesee County Health Department issued a “Public Health Advisory for People Using the Flint City Water Supply with the Flint River as the Source,” (the “Advisory”), which stated in pertinent part: “recent data provided by Hurley Hospital Researchers has indicated that a significant increase in blood lead levels has occurred in children since the switch to Flint River water.”

74. On or about October 8, 2015, Flint’s Eisenhower and Freeman Elementary Schools, along with Brownell and Holmes STEM Academies, exceeded 15 ppb for lead – the safety standard set forth by the Federal Government. Students and staff were ordered to drink bottled water only.

75. Properties were also heavily impacted. For example, the prolonged exposure of the highly corrosive water without adequate anti-corrosive agents may have irreparably damaged lead and copper plumbing throughout Flint, all of which must now be repaired or replaced.

76. In February of 2016, the Detroit Free Press reported on the sharp decline in property values as a result of the water crisis in Flint. According to the article, certain individuals that specialize in property tax matters estimate that the property values in Flint, due to the water crisis, will drop as much as 25%. In at least one instance, property value(s) were found to be 75% less than pre-exposure levels.

77. According to this Detroit Free Press article, Eric Dean Morse, the president of Flint-based Allied Real Estate Appraisers, indicated that lenders are “already skittish about lending in Flint . . .” and that “[e]ight months ago [it] was a completely different market than what’s going on now.”

78. In February of 2016, Charles “Charlie” LeDuff, an on-air journalist for Detroit Fox affiliate WJBK, published a TV spot relating to LAN’s role in the so-called Flint Water Crisis. According to the TV spot, when Mr. LeDuff went to LAN’s Flint, Michigan office, it was empty and looked abandoned, even though Flint recently retained LAN for connecting the FWTP to the KWA.

79. There is an amalgamation of interests, activities and the roles of LAN and LAD that blur the legal distinction between the corporations that include, but are not limited to:

- a. LAD and LAN have interlocking officers and directors. For example, LAN and LAD share the same executive personnel – Chief Executive Officer Leo A. Daly III and President Dennis W. Petersen – who, upon information and belief, control and direct the companies as one.
- b. LAD and LAN share offices in Houston, Texas.
- c. LAN holds itself out to the world as a LAD company.
- d. LAD’s website homepage contains the LAN logo and a link to the LAN website.
- e. LAN holds itself out to world as “A Leo A. Daly Company” on LAN’s website, reports, and even on the buildings where its offices are located (including its office in Flint).
- f. the Terms and Conditions of Use, Privacy Statement on the LAD website indicate that it and LAN are not separate and distinct entities by making joint assertions such as their intellectual property rights and warranty disclaimers, which explicitly declare that “‘LEO A DALY’, ‘Lockwood Andrews & Newnam’, and ‘LAN’ are trademarks of Leo A. Daly Company.”
- g. LAD’s “services are extended through Lockwood, Andrews & Newnam, Inc. (LAN), a Leo A. Daly Company.”

80. Upon information and belief, LAN is a subsidiary of LAD, which exerts a degree of control over LAD greater than what is normally associated with common ownership and directorship, such that LAN exists as a separate entity from LAD in name only. Upon further

information and belief, LAN is totally reliant upon LAD for direction with regard to all critical aspects of the issues giving rise to this lawsuit.

81. Upon information and belief, because LAN does not manifest separate corporate interests from those of LAD and functions solely to achieve the corporate purposes of LAD, retention of their separate corporate personalities and identities would promote injustice in the context of this lawsuit.

82. Due to this amalgamation of interest, activities and roles, LAD should be held liable for any judgment entered against LAN and in favor of the Plaintiffs.

### **PROFESSIONAL NEGLIGENCE**

83. Plaintiffs incorporate the preceding paragraphs as though fully stated herein.

84. Defendants owed a duty to Plaintiffs, as residents and property owners in the City of Flint, to exercise that degree of care consistent with the greater degree of knowledge and skill possessed by design professionals, as well as an ethical duty to report to public authorities the dangers posed to public health and property that would result from the failure to install and/or operate a proper anti-corrosive treatment when using the Flint River as a primary source of drinking.

85. Defendants also owed a duty to Plaintiffs to notify the proper authorities of unethical or illegal practices of others whose actions or decisions posed threats to public health and property that would result from the failure to install and/or operate a proper anti-corrosive treatment when using the Flint River as a primary source of drinking.

86. Plaintiffs had a right to and did rely upon Defendants' professional expertise and ethical obligations in connection with Defendants' administration of placing the Flint Water Plant into operation using the Flint River as a primary source.

87. Defendants' duties to Plaintiffs included, but were not limited to, the duty to properly administer the placing the FWTP into operation using the Flint River as a primary source, to do so in such a manner that would not endanger the health and property of Plaintiffs and Class Members, take other actions consistent with the greater degree of knowledge and skill possessed by design professionals, and/or the duty to report to public authorities the dangers posed to public health and property that would result from the failure to install and/or provide proper anti-corrosive treatment when using the Flint River as a primary source of drinking.

88. There is also an inference that Defendants breached their collective duties to Plaintiffs and the Class Members since the spike in lead levels does not normally occur unless water is not properly treated, such as the non-use of anti-corrosion treatments in providing finished water drawn from a water source and transported through a pipe system known or should have been known to require the use of such anti-corrosion treatments.

89. As a direct result of Defendants' so negligently, carelessly and/or recklessly administering the placing of the FWTP into operation using the Flint River as a primary source and/or failing to report to public authorities the dangers posed to public health and property that would result from the failure to install and/or provide proper anti-corrosive treatment when using the Flint River as a primary source of drinking, Plaintiffs and Class Members have experienced serious and in some cases life-threatening and irreversible bodily injury.

90. Plaintiffs and Class Members have and will also incur substantial economic losses including but not limited to medical expenses and lost wages.

91. Plaintiffs and Plaintiff Class Members are also entitled to an award of non-economic and/or exemplary damages in the nature of pain and suffering, embarrassment, outrage, mental anguish, fear, sense of insult, indignity, humiliation and mortification, and stress related

physical symptoms such as sleepiness, gastro-intestinal discomfort, neuropathy and similar symptoms.

92. Additionally, Plaintiffs and Plaintiff Class Members have experienced property damage to the homes and places of business in the nature of lost property value (due to both the need to repair their property and the loss in market value of their property given the stigma attached to the Flint area due to the massive regular media reporting of the lead contamination resulting from Defendants' negligence) and seek damages to remediate the permanent damage caused by the use of corrosive water without proper anti-corrosive treatment.

#### **RELIEF REQUESTED**

Accordingly, Plaintiffs request the following relief from the court:

- a. An order certifying this case as a Class Action;
- b. An order for an award of full compensatory damages for those injuries and damages, including diminution of property values, sustained by Class Representatives and all Class Members;
- c. An order for exemplary damages;
- d. An order for an award of actual reasonable attorneys' fees and litigation expenses;
- e. An order for all such other relief the court deems reasonable, equitable and just under the circumstances.

**JURY TRIAL**

Plaintiffs demand a trial by jury of all claims so triable.

Respectfully submitted,

**MCALPINE PC**

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