

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

In re Flint Water Cases.

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**This Report and Recommendation
Relates To:**

**Judith E. Levy
United States District Judge**

ALL CASES

_____ /

**REPORT AND RECOMMENDATION OF THE SPECIAL MASTER
REQUESTING AUTHORIZATION TO FINALIZE THE TERMS
OF DISTRIBUTION OF THE SETTLEMENT FUND, FOR
IMPLEMENTATION OF PAYMENT PROCESS, AND TO ESTABLISH
THE ALLOCATION METHODOLOGY IN ACCORDANCE WITH THE
ASA FOR DISTRIBUTION OF FUNDS PURSUANT TO THE ASA**

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On July 31, 2018, under Federal Rule of Civil Procedure 53, the Court appointed Deborah E. Greenspan to serve as a Special Master. Amended Order Appointing Special Master (“Special Master Appointment Order”), ECF No. 544, PageID.16581-16590. The Special Master Appointment Order specified various assigned duties and noted additional tasks that could be performed by the Special Master, as directed by the Court.

On November 10, 2021, the Court issued its *Opinion and Order Granting Final Approval of a Partial Settlement, Granting Certification of a Settlement Class, Granting Appointment of Settlement Class Counsel [1794], Denying Objections, and Adopting the Report and Recommendation [2006]* (“Opinion and Final Approval Order”), 571 F. Supp. 3d 746 (E.D. Mich. 2021) (ECF No. 2008, PageID.69537-69714).

The Opinion and Final Approval Order approved the settlement reached between Plaintiffs and the Settling Defendants in the Amended Settlement Agreement (“ASA”), ECF No. 1394-2, PageID.54120-54211 (dated January 15, 2021).¹ The ASA specified various duties of the Special Master and defines the Special Master as Deborah Greenspan. ASA, at §1.77, ECF No. 1394-2, PageID.54136. As set forth in the Opinion and Final Approval Order, pursuant to

¹ Unless otherwise defined herein, all capitalized terms herein have the same meaning set forth in the ASA.

the ASA, the Special Master oversees various aspects of the settlement and her duties include: “(1) consulting with the Claims Administrator and making decisions regarding registration and participation; (2) considering and deciding, in a timely fashion, any appeals taken by participants ...; and (3) handling any disputes that arise involving the ASA.” Opinion and Final Approval Order, 571 F. Supp. 3d at 761, ECF No. 2008 at PageID.69554 (citing ASA at PageID.54163–54174).

On January 20, 2022, the Court issued its *Order Regarding Settlement-Related Duties Of The Special Master*, ECF No. 2096, PageID.71973-71977 (“January 2022 Order”). By this Order, the Court amended its previous Special Master Appointment Order and directed Deborah E. Greenspan to fulfill all of the duties of Special Master set forth in the ASA. *See* January 2022 Order, PageID.71975. The January 2022 Order further provided:

Under the provisions of the Special Master Appointment Order, the Court further directs the Special Master to assist the Court in its oversight role by supervising the implementation of the ASA, including, without limitation, supervision and audit of the claims administration process and the entities engaged to provide services in connection with the review, evaluation, and administration of claims and the distribution of settlement assets.

Id.

I. Background and Purpose

A. Amended Settlement Agreement

The Amended Settlement Agreement was approved by the federal district court, and all federal court orders necessary for full approval of the settlement had been entered as of March 3, 2022. *See Amended Final Judgment and Order of Dismissal with Prejudice Implementing Partial Settlement Pursuant to Fed. R. Civ. P. 54(b) and 58(a) [2077]*, ECF No. 2128, PageID.72313-72397 (Mar. 3, 2022). Approximately 30 individuals filed three separate appeals related to the settlement. Those appeals were resolved on March 17, 2023, when the United States Court of Appeals for the Sixth Circuit affirmed the district court's decisions. *In re Flint Water Cases*, 63 F.3d 486 (6th Cir. 2023). On March 20, 2023, the state court entered its judgment addressing the state court cases that were resolved by the settlement. *See In re Flint Water Litigation, Final Judgment and Order of Dismissal with Prejudice Implementing Partial Settlement Pursuant to MCR 2.420, 2.504(A)(2) and 2.602(A)*, Case No. 17-108646 (Genesee County, MI) (Mar. 20, 2023).²

On February 27, 2023, the State Court Administrative Office appointed a probate judge to address the probate-related tasks required by the Amended Settlement Agreement.

² Three additional settlements were reached and approved after this date as explained below. Two of those settlements incorporate separate terms that require a separate distribution of these additional funds to class members.

The Amended Settlement Agreement establishes a comprehensive program that “provides compensation to tens of thousands of people who were impacted by exposure to lead, legionella, and other contaminants from the City of Flint’s municipal water supply system during the events now known as the Flint Water Crisis.” *In re Flint Water Cases*, 571 F.Supp.3d 746, 755 (E.D. Mich. 2021). The settlement provides 30 different compensation categories covering a wide range of claims of injury and damage, including claims for minors and adults and claims for personal injuries, property damage, and business loss. *See* Exhibit 8 to the ASA, Flint Water Cases (FWC) Qualified Settlement Fund Categories, Monetary Awards, and Required Proofs Grid (11/11/20), ECF No. 1319-2, PageID.40788-40840 (the “Compensation Schedule” or “Grid”). The 30 Compensation Categories are divided into 21 different categories for children (at the time of the Water Crisis) and 9 categories for those who were adults at the time. *Id.* The Compensation Schedule provides for different compensation amounts based on various factors including the age of the claimant at first exposure to the Flint water, whether the claimant has evidence of lead in their blood or bones, whether the claimant documents certain medical conditions including cognitive conditions, whether the claimant was exposed to Flint water before or after July 31, 2016, and whether the claimant owned or leased a residential property or owned a business that received Flint water and that suffered a loss. *Id.*

The ASA established a two-step process for those wishing to participate in the settlement. First, individuals or entities were required to register to participate in the settlement by the registration deadline, which was March 29, 2021. *See* ASA, ECF No. 1394-2, PageID.54140-54145.³ Second, those who registered were required to submit a Claim Form and required Claims Materials within a defined claims period. *See* ASA, ECF No. 1394-2, PageID.54140-54145; Final Approval Order, ECF No. 2008, PageID.69554-69556. The final deadline for the submission of claims was June 30, 2022.

In late 2022, when the first set of initial notices was scheduled to be issued, the Special Master's office identified significant data concerns. Due to issues with uploading data, the analysis of claims had been based on incorrect or incomplete information, which meant that the claim determinations were not accurate. Accordingly, in January 2023, the undersigned submitted a report and recommendation to the Court seeking approval to add further resources to the claims process to address the data import issues and to enhance the review process. *See Report and Recommendation of the Special Master Regarding Addition of Claims Administrator Services for the Partial Settlement*, ECF No. 2341, PageID.75987-

³ The Court authorized those who registered late (by September 28, 2021) to be deemed timely registrations. *See* Opinion and Final Approval Order, 571 F. Supp. 3d at 793 (adopting Special Master Report and Recommendation, ECF No. 2006, PageID.60734).

76009 (Jan. 31, 2023). The Court approved the additional resources⁴ and during January and February of 2023, the new claims administration team re-compiled the data, tested the data transfer process, set up the claims review program, and imported the data so that the data was correctly matched with the claims.

In March of 2023, the review process restarted, and the first notices to claimants were distributed the next month – in April 2023. After three months, the undersigned identified a further issue. The percentage of rejected claims was unacceptably and inexplicably high: approximately 85 percent of claims had been found deficient and ineligible. After investigation, the Special Master concluded that this deficiency rate did not reflect the number of truly invalid claims. Instead, the deficiency rate was based in significant part on the limitations in the data provided in the claim forms, terms set forth in the claim form instructions, and elements of the claim system that affected the data upon which the reviews were conducted. The Special Master met with the parties and with the claims administrator to address these factors and as a result, the Special Master implemented adjustments to the procedures and further (as explained below) undertook to obtain data and information that would allow claims to be processed

⁴ See *Order Authorizing Engagement Of Wolf Garretson LLC And Alvarez & Marshal Disputes And Investigations, LLC Under The Supervision Of The Special Master To Provide Certain Defined Services In Connection With The Administration Of Claims In The Partial Settlement*, ECF No. 2344, PageID.76017-76018 (Feb. 1, 2023).

and evaluated based on third-party data (meaning pertinent data acquired from other sources).

In light of the data issues experienced initially and based on experience, the Special Master also recommended (as noted) that the claim review process be subject to a review and confirmation function that included audit of claim outcomes on an appropriate sample basis, and analysis of the system for maintaining, capturing, and validating the data to address data and system integrity. This important function was carried out by an independent expert firm and by the Special Master's office.⁵

During the course of the claims process, the Special Master has conducted frequent and regular meetings with the claims administrator and with the independent firm to address questions, issues, claims referred by the claims administrator, and to provide oversight and guidance for individual claims questions and for the claims processes as a whole.

B. Overview of Claims Process

The claims review team was charged in the first instance with the responsibility for determining whether a claimant has documented exposure to Flint

⁵ Additionally, the Special Master implemented claims guidelines for the consistent and appropriate review of data. *See, e.g., Notice of Special Master Providing Interpretation and Guidance Regarding Claim Eligibility Under Partial Settlement*, ECF No. 2148, PageID.72539-72548 (Mar. 26, 2022); *Directive of the Special Master Providing Guidance on Claims Processing Matters*, ECF No. 2221, Page ID.73754-73761 (Sep. 26, 2022).

water during the relevant time period, whether a claimant has documented any qualified injury, whether a claimant can show ownership or lease (or obligation for water bills) for any eligible Flint residential property, and whether the claimant can show a business loss as defined in the settlement. Each claim has been reviewed using a three-step process. First, a claim goes through initial review. At this stage the review team can determine the basic characteristics of the claim and make initial determinations of whether the claimant is a minor or adult, whether the claimant has documented exposure to Flint water, and whether the claimant has submitted information to support a claim in a specific compensation category. The reviewer then assigns a determination to the claim and identifies any deficiencies in the claim. The claim next goes to a quality assurance process and from there, a portion of claims are put through the audit review. These procedures have been important: They promote accuracy and consistency in evaluating claims under the complex terms of the settlement; they identify common issues and situations where the claims analysis process could be improved, and they can detect and help prevent fraud.

After a claim has been reviewed and has completed the steps outlined above, the claim is eligible for a notice. The notice tells the claimant the outcome of the review – whether it is approved, whether the claim has deficiencies that prevent approval at that time, whether it is approved for a category that is different than the one claimed, and whether it is missing information. Each claimant is permitted to

ask for reconsideration of the claim if the claimant disagrees with the notice and is permitted to provide new information to cure the deficiencies. The claims administrator then reviews the claim again and provides a reconsideration notice advising the claimant of the outcome of the review on reconsideration. If the claimant disagrees with the reconsideration notice, the claimant can appeal to the Special Master. Notices were sent to counsel for those claimants who were represented by a lawyer. Notices for those claimants who were not represented by individual counsel were sent by mail to the best available address for the claimant. (A few notices were sent by email.) Class Counsel, who represents adult claimants who did not retain individual counsel, assisted such individuals in preparing their claims and requests for reconsideration or appeal.

The Special Master has received over 2,500 appeals, including requests from the claims administrator for review in accordance with ASA Article XIII.B. In addition, the Special Master met with the review team nearly weekly to review determinations flagged in the audit process and other questions raised by the administrative review team, and the Special Master's team conducted a verification review of claims identified for notice each week to identify anomalies or questions. The Special Master's team also conducted frequent data analyses to identify issues or discrepancies. The Special Master addressed claims submitted for "children in care" (foster children) since those claimants did not have ready access to data to

support components of the claims and further provided guidance to the administrator for claims involving neurocognitive records and voluminous medical records. These various reviews allowed the Special Master's office to identify any issues – substantive or procedural – in the administrative process that required additional consideration or adjustment. The Special Master also convened a hearing process – intended both to assist claimants who had difficulty accessing pertinent documents and to evaluate credibility. Each such review involves a thorough review of the claim file, including third party data obtained, together with sworn testimony and all other information the claimant or counsel submits to supplement the claim. The Special Master hearings, as applicable, address exposure to Flint water during the relevant time periods, obtain medical support for claims eligibility, verify real property and business claims through public records and sworn testimony, substantiate Next Friend appointments, and assign Settlement Categories for claimants. The hearing process is intended to help claimants who were unable to obtain required documents for their claims. Claimants were permitted to request a hearing and then sign up on a schedule posted by the Special Master's office. Class Counsel assisted claimants who were not represented by individual lawyers to schedule and conduct hearings. The hearings were instrumental in assisting claimants to finalize and perfect their claims. In many cases, the hearings addressed family groups – sometimes with five or six children along with related adults. The

Special Master issues written determinations for each claim that is subject to a hearing, appealed, or that is otherwise submitted for final decision by the Special Master, including claims involving disputes between two or more individuals seeking to act as a Next Friend for the same minor or legally incapacitated individual.

All Special Master written determinations and decisions are uploaded to the claims administrator and also to claimant's counsel via a secure website (ASA § 21.15) or otherwise provided directly to an unrepresented claimant if electronic access is not easily available.

The review process is careful and considered to ensure that the settlement is responsibly implemented. That means that every claim must be given careful and accurate consideration so that those who are eligible are not denied compensation because of errors or technical deficiencies. Although it takes time, such consideration is necessary to achieve the correct results and ensure that those who are eligible receive compensation and that those who are not eligible do not receive funds from the settlement. Additionally, although the reconsideration and appeal process takes time, these final review steps are proving to be extremely valuable and worthwhile: many claims that had been denied through initial and reconsideration review have now been approved after appeal.

C. Settlement Terms Governing Payment to Approved Claimants

Under the terms of the ASA, the amount that can be paid to each approved claim cannot be determined until all claims are finalized. This is because the amount allocated for each claim category is divided among all claimants who qualify for that category – so that each such claimant will receive the same payment amount (subject to individual liens and expenses). It is not possible to determine the final claim values for injury claims until all claims are categorized. There is one exception to this rule: the claims for persons who died from legionnaires disease can be paid and have been paid before other claims are finalized because the dollar amount for those claims is specified in the ASA. In addition, the funds allocated to programmatic relief have also been distributed. Those funds were paid to the Genesee County Intermediate School District in May 2024. As of the date of this report over \$11.7 million dollars have been distributed via programmatic relief and to the legionella claims noted above.

D. Fund Assistance for Claimants

As noted, during the course of the implementation of the settlement and the claims review process, it became clear that it would be helpful to obtain data from third party sources to assist claimants. Accordingly, with the permission of the parties and the approval of the Court, the undersigned embarked on an effort to assist claimants in obtaining documentation to demonstrate exposure to Flint water – a

fundamental requirement under the settlement to ensure that the settlement funds are awarded to compensate those who were impacted by the Flint Water Crisis.

Through this process, we obtained voluminous water billing records from the City of Flint, helping to confirm exposure and residential property claims for thousands of claimants by identifying eligible residential and commercial locations (meaning locations that received Flint water), water customers and billing records, and further by confirming exposure based on school records to assist claimants who were children at the time of the water crisis in their eligibility for the settlement.

Pursuant the *Order Granting Stipulation Regarding Access to and Use of Educational Records for Limited Purposes [2388]*, ECF No. 2389, PageID.76911-76920 (Mar. 3, 2023), the Special Master was able to obtain school records from the State of Michigan. The State’s Center for Educational Performance and Information (“CEPI”) helped the Special Master confirm exposure for large numbers of claimants who were minors at the time of the water crisis but who had been unable to locate such proof on their own.

We have also assisted claimants in obtaining their blood lead test data. The Court has authorized the Michigan Department of Health and Human Services to provide blood lead level testing data for purposes of the settlement, which means that individual claimants do not have to locate blood test results. *See Stipulated Order Regarding Access to and Use of Blood Lead Level Test Data for Limited*

Purposes, ECF No. 1958, PageID.68156-68162 (Sep. 2, 2021). This test data is used not only to approve compensation categories based on the test results, but also to allow the claims administrator to confirm exposure to Flint water where the data shows the claimant's address at the time of the test. Obtaining and incorporating this data has been complex but has provided valuable assistance to claimants in enabling their claims to be approved.

We also assisted claimants by obtaining and incorporating into the claim files data on lead or galvanized steel service lines in the City of Flint to support claimants who qualify for compensation based on their presence in residences with such service lines.

We have assisted claimants seeking to qualify for property damage claims by instituting a process to verify property ownership – again, to assist claimants who could not locate the necessary documentation to support a claim for property damage. The Special Master, via the claims administrator, referred an estimated 3,300 to 4,000 property and business verification inquiries to the Master Guardian ad Litem (MGAL) to verify eligibility based on land record searches and publicly available corporate and business entity records.

We have also obtained thousands of birth certificates for claimants, which as noted are used both for identification purposes and to determine the appropriate legal representative of a minor claimant.

Specifically, we have obtained the following records:

- 2.6 million water customer billing records;
- 77,000 school enrollment records;
- 40,000 blood lead testing records;
- 28,000 service line records;
- 8,300 requests for birth certificate records; and
- Between 3,300 to 4,000 claims submitted for property search and verification.

We also established a streamlined process to address claims filed by representatives of deceased individuals so that claimant would not have to spend substantial funds seeking appointment as a personal representative unless and until it was necessary.

This data collection process has taken time and required significant efforts but has resulted in substantial benefits for claimants. Use of these records has helped to ease the burden on many claimants and enable many claimants to qualify, ensure that the settlement funds are directed to those who can properly qualify under the terms of the ASA, and help prevent fraudulent claims from being paid.

E. Audit and Due Diligence Process

As noted, the claims process has also included a rigorous audit process to ensure data integrity and accuracy of the claims review results. The expert firm

conducted analyses of the claim data and systems to identify any issues that could affect data integrity or the accuracy of the review process. The expert firm along with the Special Master's office conducted a weekly review of claims identified for notices and through that process identified potential issues that affected the claim determinations. As part of this process, the expert firm applied over 30 "screens" to identify claims for review with a higher likelihood of having claim adjudication issues that could result in an errant award determination ("QC Batch Check Screens"). A list of these QC Batch Check Screens is identified in Exhibit 1-A. These QC Batch Check Screens were run on claims identified for potential notice at both the initial notice and reconsideration notice stage. In total, the expert firm conducted reviews on approximately 41,000 claim records (including initial notices and reconsideration notices), and identified potential issues and considerations to be addressed in approximately 27% of such cases. This process not only helped ensure accurate claim review results on the specific claims reviewed, but also resulted in ongoing improvements to the claim system and to the guidelines for reviewers.

In addition, the expert firm conducted an extensive due diligence process at the request of the Special Master. This due diligence process, which started in 2025, included multiple issues that were checked across the entire claims population to help ensure accuracy and identify claims that might still be approvable. This process included: (1) verification that every claim submitted had been reviewed and had

been sent a notice, (2) identification of facially invalid outcomes (such as a minor child being assigned an adult compensation category), (3) consistency of analysis for similarly situated claimants (such as family members living in the same location), (4) accuracy and consistency of demographic data; (5) identification of potential duplicate claims submissions not already identified; (6) identification of claims with data associated with the claim record that indicated a claim might be approvable for an award not already approved. The expert provided reports to enable the Special Master and the claims administrator to address and correct issues and discrepancies. The full list of 17 such due diligence screens is set forth in Exhibit 1-B.

Finally, in the fall of 2025, as claims were being finalized and prepared for payment, the expert firm and Special Master's office embarked on a final due diligence to identify any remaining issues or discrepancies for the claims administrator to investigate and resolve. A list of these final data checks being performed on claims to be issued payment is included in Exhibit 1-C.

These due diligence procedures resulted in additional claim approvals and correction of data discrepancies, which is critically important for the payment process to help ensure that valid claims are approved and paid for the correct awards, and that invalid claims are not approved thereby reducing the funds available for valid claims.

The Special Master’s office in conjunction with the Master Guardian ad Litem also conducted due diligence to confirm the appropriate legally authorized “Next Friend” for minor claimants. The ASA (and State law) require that all minors have a court authorized Next Friend. This due diligence process is described in more detail below.

F. Overview of Claim Outcomes and Next Steps

The claims administrator received claims on behalf of approximately 43,060 claimants.⁶ Approximately 3,700 of these claimants had two or more different claim submissions made on their behalf, either directly and/or through different law firms. During the claim process, the claims administrator issued over 14,000 notices on claims that were submitted to reconsideration. Over 2,500 claims were submitted to appeal review (either through an internal process or appeals by claimants). The rate of approval of appealed claims and claims referred by the claims administrator remains high – with over 80% of claims being approved either initially or for a category that is higher than that approved by the claims administrator as of the date of this report, in part because in hearings claimants were able to provide detailed information not previously available.

⁶ This number does not include additional claims that have been submitted only under the LAN or VNA class settlements.

As of the date of this report, 25,900 claimants have been approved for payment.⁷ Of those, 12,770 are claims submitted by adults at the time of the water crisis and 13,130 are claims for children. Of the approved claims for children, approximately 56% are for minors 6 years old or younger at the time of exposure to Flint water, 25% were between 7 and 11 years old, and 19% were between 12 and 17 years old. Note that adult claimants can have more than one eligible claim – for example, both an injury and a property claim, or multiple property claims. There are 28,428 claims approved for payment for the 25,900 claimants. Appeals have continued to be submitted as recently as the week before the date of this report. A number of appeals are still under final review and those decisions will be completed shortly.

G. Investments and Earnings of Fund

The settlement funds have been placed in secure investments, primarily U.S. Treasuries, authorized by the Court. All interest and earnings are deposited into the Flint Water Settlement Fund. The Flint Water Settlement Fund is under the jurisdiction and supervision of the United States District Court – and money can be distributed from the Fund only if the Court permits the distribution. No other entity

⁷ This number does also not include claims without an authorized Next Friend or Representative. It does include approved claims that still have “missing information” that will be required at the payment stage (such as an identification document or a driver’s license).

can access the Flint Water Settlement Fund. The Flint Water Settlement Fund, which is organized as a Qualified Settlement Fund under Section 468B of the Internal Revenue Code, must file tax returns and pay income taxes on its earnings – so a portion of the earnings have been paid to the IRS. Administrative expenses of the Fund are paid from the earnings, and these expenses serve to reduce taxes that would otherwise have been owed.

H. Benefit Preservation

One issue of great concern in many settlements is whether the receipt of settlement payments could affect a claimant's entitlement to benefits from needs-based government assistance programs. This is an issue of particular concern in this settlement because many of the claimants rely on these programs for housing, food assistance, and medical care. The Special Master and the Master Guardian ad Litem are pleased to report that after meaningful effort, the relevant State agencies have provided reassurance that based on the circumstances of this settlement, the compensation awards will not affect an approved claimant's entitlement to, or amount of, assistance needs-based programs with just a few exceptions. The Special Master and Master Guardian ad Litem thank Professor Luke Shaefer at the University of Michigan and the multiple dedicated civil servants in the State government who helped to analyze this issue and provide critical guidance. Appended to this Report at Exhibit 2 are three letters documenting the determination

of relevant agencies within the State that, except in very limited circumstances, the receipt of a settlement payment will not affect those receiving needs-based assistance in the State of Michigan. Specifically, Exhibit 2 includes: i) the State of Michigan Department of Health and Human Services letter addressed to Special Master Deborah Greenspan; (ii) the State of Michigan Housing Development Authority Memorandum Re: Flint Water Settlement Payments – Income Exclusions for the MSHDA Housing Choice Voucher Program; and (iii) the Flint Housing Commission letter addressed to Special Master Deborah Greenspan.

This is an extremely beneficial determination for claimants. A very large percentage of the claimant population receives funding and support from multiple different programs and it is critical to preserve those benefits that provide a necessary lifeline to thousands of claimants.

II. Recommendations for Finalizing Claims and Distribution

A. Recommendation to Deem Certain Submissions as Complete

The claims process required claimants to execute a form of Release and a Signature Attestation Form. When a claimant failed to provide such information but had an otherwise approved claim, the approved claim was not deemed complete for payment and the claims administrator provided a “missing information” notice notifying the Claimant that they needed to provide the required signatures. Those notices included a missing information or deficiency response form, and the wording of the cover letter indicated that the claimant should sign and date the “form.” In approximately 191 such cases, the claimant understandably signed the response form to complete their release and attestation signature requirements. Because these claimants made a good faith effort to comply and clearly intended to sign the necessary release and attestation forms, I recommend that the Court issue an order to deem such signatures to be valid and acceptable forms of release and attestation and that such claimants shall be deemed eligible to receive payment.

B. Recommendation Regarding Process for Signatures from Claimants who Qualify for Payment as a Minor but who are Now Adults

Claims for those individuals who were minors at the time the settlement claims were submitted but who have now reached the age of 18 were submitted by a Next Friend – who is the person who signed the release and other relevant forms. Because these claimants are now adults, they need to sign the relevant forms on their

own behalf. The most expedient way to obtain these signatures is to request them during the payment process. Accordingly, the payment website (described below) has been designed to permit such signatures – avoiding the need to distribute separate forms and then await their return.

**C. Procedures to Ensure Legal Representatives for Minors;
Recommendations Regarding Role of Court Appointed Guardians and
Second Release Protocol; Determination of Appropriate and Fair
Decisions for Minors**

Every minor claimant must have a qualified legal representative to bring their claim. The Court issued an order in January 2021 identifying the types of individuals who may serve as the Next Friend or legal representative. *See Order Taking Judicial Notice of the Appointment of Next Friends and Ordering Parallel Relief with the Genesee County Circuit Court [1365]*, ECF No. 1405, PageID.54487-54491 (Jan. 26, 2021) (the “Next Friends Order”). Anyone who filed a claim on behalf of a minor (or legally incapacitated individual or deceased individual) was required to submit documentation confirming their compliance with the Court’s order. The claims administrator was responsible initially for determining whether a minor (or legally incapacitated or deceased person) had an appropriate legal representative. If there was no documentation for a valid representative, the claim was issued a notice stating that the claim could not be processed until such a representative was identified.

The process of determining the appropriate representative for minor claimants was complex. In many cases, the appropriate representative is a guardian who may or may not be a family member of the claimant. In many cases the guardians have changed over time. In some cases, children were in foster care and later adopted – which means that the biological parent was no longer an authorized legal representative. These claims have been carefully reviewed by the Master Guardian ad Litem and as appropriate by the Special Master’s office. The Master Guardian ad Litem was instrumental in verifying the proposed Next Friends and in assisting individuals and counsel with obtaining probate court appointments to confirm Next Friends as appropriate. This process enabled hundreds of minor claimants to proceed with proper representation and protections.

The Special Master’s office and the Master Guardian ad Litem with the assistance of the State identified dozens of claims that were filed by individuals who were not appropriate legal representatives of a minor claimant because their parental rights had been terminated. The presence of such claims is extremely concerning: not only are these purported Next Friends prohibited by law from representing the interests of the children, in some cases, the child had been adopted and the adoptive parents had also filed a claim. The Special Master and Master Guardian ad Litem instituted procedures to identify such unauthorized persons to ensure proper protections for the children and to avoid the potential for unauthorized payments.

This process has involved careful scrutiny of claims and supporting records, as well as court records, and has helped to ensure the presence of a person with legal authority to safeguard the funds paid for children and avoid payment of settlement funds to ineligible persons. In addition, the Special Master's office and the Master Guardian ad Litem have evaluated claims submitted for minor claimants by two or more persons claiming to be an appropriate Next Friend. As required by this Court's order, where two or more individuals seek to represent the interests of a minor, the claims are referred to the Master Guardian ad Litem for investigation. The Master Guardian ad Litem reviews the claim file along with applicable probate, civil, juvenile, and criminal court records. (ASA §§21.14, 21.15). The Master Guardian ad Litem provides a report to the Special Master who then issues written binding determinations resolving disputes between two or more individuals seeking to act as a Next Friend and adjudicating the substantive claim for compensation.

1. Recommendations Regarding Implementation of Additional Procedures for Protection of Claims of Minors

The ASA provides for a second stage approval process for minors and legally incapacitated claimants who received favorable notices approving their claims:

21.16 After the Claims Administrator has determined that a Minor or LII is eligible to participate as a Claimant in the Settlement Program and before a Monetary Award is issued to that Minor or LII, the Claims Administrator must certify in the Favorable Notice that he or she has properly determined that the Minor or LII is eligible to participate as a Claimant in the Settlement Program and assigned the Settlement Category that will result in the highest monetary award to the Minor or LII based upon the submitted Claims Materials.

21.17 The Claims Administrator shall issue a Favorable Notice to the Next Friend appointed to act on behalf of a Minor or LII. The Next Friend must accept or reject the terms stated in the Favorable Notice within fifteen (15) days of receipt.

21.18 If the Next Friend accepts the Favorable Notice, he or she must sign an additional release in the form attached as Exhibit 15 on behalf of the Minor or LII. The Next Friend must elect at that time from the options in Paragraph 21.28 as to how the Monetary Award should be distributed to the Minor or LII.

21.19 If the Next Friend fails to timely accept or reject the Favorable Notice, the Claims Administrator shall send a second notice informing the Next Friend that the terms stated in the Favorable Notice must be accepted or rejected within 14 days of receipt. If, after the second notice, the Next Friend fails to accept or reject the Favorable Notice, the Notice will be presumed to be rejected by the Next Friend.

21.20 If the Next Friend accepts a Favorable Notice and does not elect to receive a Structured Settlement as described in Paragraph 21.28.3, a Panel GAL will be randomly assigned for the Claimant. A Structured Settlement described in Paragraph 21.28.3 that results in an annual payment of less than \$5,000 until that Minor becomes an Adult does not require review and approval by a Panel GAL or the Genesee County Circuit Court.

21.21 The randomly assigned Panel GAL will evaluate whether the Settlement Category and Monetary Award assigned by the Claims Administrator, and the option elected by the Next Friend for the Minor or LII to receive a Monetary Award is fair, reasonable, adequate, and in the best interests of the particular Minor or LII. If the Panel GAL agrees with the determinations of the Claims Administrator and Next Friend, such Panel GAL shall issue a report and recommendation regarding their findings. The Panel GAL's evaluation will be presented to the Genesee County Circuit Court for determination of whether the Settlement Category, Monetary Award, and elected option to receive the Monetary Award is fair, reasonable, and in the best interests of the particular Minor or LII. If the Panel GAL and Genesee Circuit Court agree that everything is in the best interest of the Minor or LII, then the settlement will be approved and the Claims Administrator will effectuate the option elected by the Next Friend for the Minor or LII.

21.22 If the Panel GAL or the Genesee County Circuit Court determines that the assigned Settlement Category, Monetary Award, or elected option to receive the Monetary Award is not fair, reasonable, adequate, or in the best interests of the Minor or LII, then the claim will be sent for a reevaluation by the Claims Administrator or Next Friend and the process repeated until the Monetary Award is approved by the Panel GAL and the Genesee County Circuit Court.

ASA § 21.⁸

⁸ The ASA also contains the following provisions for a Second Stage Approval Process for Unfavorable Notices, reconsiderations and appeals:

21.23 Any Minor or LII who receives an Adverse Notice or disagrees with the Settlement Category assigned by the Claims Administrator in a Favorable Notice may request that the Claims Administrator reconsider its determination(s) and appeal any Reconsideration Notice relating to a Reconsideration Request to the Special Master as set forth in Article XIII—Reconsideration Requests and Appeals.

21.24 If the Reconsideration Request results in the Claims Administrator issuing a determination in favor of the Claimant or the Special Master finds that the Claims Administrator’s decisions regarding the Claimant are contrary to clear and convincing evidence, the processes and procedures in Paragraphs 21.28–21.33 shall be followed.

21.25 If a Minor or LII, who is not represented by an attorney, receives an Adverse Notice and does not timely submit a Reconsideration Request, the Claims Administrator shall, forward the Adverse Notice to the Master GAL for review to determine if the Adverse Notice is fair and reasonable. If the Master GAL determines that the Adverse Notice is not fair and reasonable, the Master GAL shall state its determination in writing and send the claim back for reevaluation by the Claims Administrator.

21.26 If the Master GAL determines that the Adverse Notice is fair and reasonable, the Master GAL shall state its determination in writing and forward its determination and the Adverse Notice to the Genesee County

As the claims process was implemented, the claims administrator issued notices for approved claims of minors that included language stating that the claimant was not required to take any further action unless they disagreed with the determination on the claim. (A claimant could receive a favorable notice for a claim category different than the one selected, which would potentially cause the claimant to seek a reconsideration or appeal.) As a result, minor claimants whose Next Friend did not seek reconsideration or appeal have been deemed to have accepted the determination of the administrator. I recommend that the Court approve this process – it is logical and has helped to reduce the “paperwork” burden on Next Friends.

2. Protections Carried Out by the Master Guardian ad Litem

ASA Section 21.21 describes the role of the Panel Guardian Ad Litem (PGAL) as evaluating whether the claims administrator’s assignment of a Settlement Category and resulting Monetary Award is fair, reasonable, adequate and in the best interest of a qualifying minor or LII. The PGAL’s review was intended to provide an individualized review of the underlying factual basis of the minors’ and LIIs’ claims and opine on the fairness of the process in arriving at the claims determinations.

Circuit Court for further review. The Genesee County Circuit Court’s determination shall be final.

As explained above, throughout the claims process, the Court and Special Master adopted multiple procedures to address complexities of the settlement and to maximize claimant eligibility that was not contemplated by, nor provided for in, the ASA. In addition, as explained, the Special Master's office and the expert responsible for audit have undertaken a comprehensive due diligence review to ensure that the settlement rules were properly applied so that claimants receive the allocation to which they are entitled. Taken together, these comprehensive factual inquiries conducted by the Special Master, assisted by the Master Guardian Ad Litem and the audit team, either corrected deficiencies in the claims as initially submitted or provided essential supplementation to arrive at fair, reasonable, and adequate claims decisions for the minors and LIIs. Claims that were submitted to appeal underwent significant review and scrutiny by the Special Master to ensure that claimants were properly evaluated under the terms of the ASA. The Special Master also assisted claimants in obtaining necessary information to demonstrate compliance with the terms of the ASA. These claims processes provided far greater oversight than what was contemplated by the role for the Panel Guardians delineated in the ASA.

Under these circumstances, the Special Master's written Determinations and Decisions supplant the PGAL reports contemplated by ASA § 21.21.

Taken together, all of the foregoing procedures have resulted in a fair, reasonable, and robust claims methodology that comprise a thorough, multi-layered review process for minors and LIIs in lieu of PGAL participation contemplated by the ASA. The Special Master’s Determinations and Decisions, along with the factual verifications set forth above, provide that “careful scrutiny over each applicable claim [as] protective, fair, and in the Minors’ and LIIs best interests.” *Master Guardian Ad Litem’s Report for July 12, 2021 Hearing on Final Approval of the Proposed Settlement*, ECF No. 1896, PageID.66305 (July 15, 2021).

Accordingly, the Special Master respectfully requests that the Court determine that the PGAL role as set forth in ASA Article XXI has been fulfilled and that additional PGAL review is not required.

D. Treatment of Minors Whose Claims Cannot be Approved at this Time/Future Children’s Fund

Under the terms of the ASA, minors whose claims are not approved for any reason including lack of necessary documentation and lack of an authorized Next Friend are automatically transferred to the Future Children’s Fund. See ASA § 1.29; Art. VI. This process preserves their right to finalize their claim if they so desire and submit the necessary information. I will provide a separate Report on establishing the Future Children’s Fund.

E. Implementation of Payment Process

The Court approved the engagement of the Distribution Vendor – Epiq Class Action & Claims Solutions, Inc. d/b/a Epiq Class Action & Mass Tort Solutions (“Epiq”) (“Distribution Vendor”) – on September 3, 2024. *See Order Authorizing Engagement of Epiq Class Action & Claims Solutions, Inc. as Distribution Vendor to Distribute Payments to Eligible Claimants in the Partial Settlement [3136]*, ECF No. 3137, PageID.107384-107385 (Sep. 3, 2024). The Distribution Vendor has constructed a payment portal through which Claimants will access their claim and payment data, review and sign structure and trust documents, as applicable, and select the form of payment. As noted, the portal will allow those claimants who have not yet signed the required release to do so on the portal and will also allow Claimants to update their contact information.

After the Court authorizes the distribution of the payments and the allocation methodology, as requested herein, the payment amounts will be calculated for each claimant. This data will then be transferred to the payment portal. Claimants will receive a letter with a unique identification code that will allow them to access the portal, find their payment information, and select their form of payment. Letters for Claimants who are represented by counsel will be sent to the relevant law firm. Claimants who are not represented by individual counsel will receive their letters with their access code in the mail. Claimants who do not have the necessary

equipment to access the portal will be able to call a number that is identified in the letter to request that their information be sent via mail (or possibly by email). Additionally, the City of Flint Public Library has generously agreed to provide access to its computer terminals and to assist claimants in accessing the portal. This access should be beneficial to claimants who do not have a device that can access the portal. The payment portal will allow Claimants to select electronic payment (directly to a bank or other authorized account) or to select a date and time to pick up a paper check. The Special Master respectfully requests that the Court approve the form of letter for each respective group, attached hereto as Exhibit 3.

The funds for Claimants who are minors can only be distributed by a structured settlement or a trust. The structure process and documents were approved by the Court on August 4, 2025. *See Second Corrected Order Adopting the Report and Recommendation of the Special Master and Master Guardian ad Litem Regarding Settlement Planning Administrator Proposal [3260]*, ECF No. 3270, PageID.108678-108681 (Aug. 4, 2025). The two trusts – a special needs trust and a preservation trust – were approved by this Court and the probate court. *See Order Granting Motion to Approve the Flint Water Cases Special Needs Pooled Trust Agreement, Joinder Agreement, Investment Policy Statement, Trust Management Fee Schedule, and For Appointment of Elder Law of Michigan, Inc. As Trustee [2659]*, ECF No. 2729, PageID.90188-90190 (Dec. 8, 2023); *Order Granting*

Petition to Approve the Flint Water Cases Special Needs Pooled Trust Agreement, Joinder Agreement, Investment Policy Statement, Trust Management Fee Schedule, and For Appointment of Elder Law of Michigan, Inc. as Trustee (Probate Court for the County of Genesee, MI, Dec. 8, 2023); *Order Granting Petition to Approve the Flint Water Cases Special Needs Pooled Trust Agreement Dated September 5, 2025* (Probate Court for the County of Genesee, MI, Oct. 29, 2025); *Order Granting Motion to Approve the Settlement Preservation Minors Pooled Trust Agreement, Joinder Agreement, Investment Policy Statement, and Trustee Fee Schedule, and For Appointment of Huntington Bank, N.A. as Trustee [2169, 2170]*, ECF. No. 2171, PageID.72934-72936 (June 3, 2022); *Order Granting Petition to Approve the Settlement Preservation Minors Pooled Trust Agreement, Joinder Agreement, Investment Policy Statement, and Trustee Fee Schedule, and Appointing Huntington Bank N.A. as Trustee* (Probate Court for the County of Genesee, MI, July 1, 2022).

When the authorized representative of a minor or incapacitated individual signs the relevant documents, funds will be transferred to the annuity company (for those electing structures) or to the trustee (for those electing one of the two trusts). Claimants whose funds will be paid into the structure or trusts may elect \$5,000 in cash – which will reduce the amount of funds in the structure or trust. Claimants will make the election to receive the cash payment on the payment portal or, if they are

not able to access the portal, they will be able to request paper forms that they can review, sign, and return.

F. Medicaid Waiver and Prohibition

The Special Master will submit a separate report and recommendation regarding the treatment of liens that could potentially be asserted by various managed care organizations to recoup the cost of services provided under Medicaid. The State of Michigan waived any rights of recovery for its own expenditures under Medicaid. The Managed Care Organizations, as will be explained in the upcoming report, should not have a right to assert liens and for the most part have agreed to waive any rights they have to recoup expenditures incurred for claimants whose medical expenses were covered through Medicaid. In that submission, I will request an order that will document the legal status of any such claims and the agreement of certain managed care organizations.

G. Medicare

The Court appointed lien administrator has been working with the Centers for Medicare and Medicaid Services (CMS) throughout the implementation of the settlement. The lien administrator reports that there are approximately 1,100 claimants who are Medicare entitled, and that CMS is willing to negotiate a ‘group’ settlement of Medicare liens instead of asserting liens individually with respect to each entitled claimant. This process is not finalized because CMS cannot enter into

a formal agreement until the amount of compensation for each claimant is identified. Once the Court determines the appropriate allocation methodology, the calculations can be made and the information can be provided. I have been advised that Medicare will take about 4 weeks to make a final decision. Because the number of affected claimants is small, I recommend that we defer payment of those claimants whose claims are subject to Medicare liens and move forward to issue payments to all other approved claimants.

H. Recommendation on Allocation Method

The ASA sets forth a compensation schedule that specifies a formula for the initial allocation of the settlement fund once all approved claims are identified and categorized. The compensation schedule specifies the relative amounts to be paid to approved claims as follows:

	Category	Ratio
Minor Child 6 or younger at exposure (64.5% of the Settlement Fund is allocated to this group.)	1	2x
	2	1.5x
	3	x
	4	0.5x
	5	0.2x
	6	0.15x
	7	0.1x
Minor Adolescent Age 7 to 11 at exposure (10% of the Settlement Fund is allocated to this group.)	8	2y
	9	1.5y
	10	y
	11	0.5y
	12	0.2y
	13	0.15y
	14	0.1y
Minor Teen Age 12 to 17 at exposure (5% of the Settlement Fund is allocated to this group.)	15	2z
	16	1.5z
	17	z
	18	0.5z
	19	0.2z
	20	0.15z
	21	0.1z
Adult (15% of the Settlement Fund is allocated to this group - Adult Injury Claims.)	22	2AX
	23	AX
	24	0.5AX
	25	0.1 AX
	26	1.1 AX
	27A	0.5 AX
	27B	Defined Amounts based on Age at death
Property Damage (3% of the Settlement Fund is allocated to this group.)	28	PX maximum payment \$1,000 per parcel of residential real property.
Business (0.5% of the Settlement Fund is allocated to this group.)⁹	29	BX maximum payment \$5,000 per business, or parcel of business real property
	30	

The above schedule defines the “baseline” allocation of the settlement fund. This baseline is subject to adjustment and reallocation. ASA Exhibit 8, the “Flint Water Cases (FWC) Qualified Settlement Fund Categories, Monetary Awards, and Required Proofs Grid (11/11/20),” provides that the initial baseline allocation is to be adjusted as needed to maintain the relative percentage amounts governing the initial allocation. Specifically, the ASA provides, in relevant part:

Unused funds in the Adult and Property Damage Sub-Qualified Settlement Fund, Business Economic Loss Sub-Qualified Settlement Fund, and Programmatic Relief Sub-Qualified Settlement Fund will revert to the Minor Child, Minor Adolescent, Minor Teen, and Future Minor Sub-Qualified Settlement Funds... The following allocation percentage amounts [i.e. the allocations set forth in the schedule above] assume the same relative ratio of Claimant participation in each category. Because the ultimate actual participation rates of Claimants in each category will vary, mathematical adjustments will be made as needed to maintain the same relative percentage amounts reflected in these allocations. ...

ASA Exh. 8, ECF No. 1319-2, PageID.40789.

The Special Master along with the audit expert have prepared baseline calculations. Following is a description of the process applied to determine the baseline award for each claim in each claim category.

⁹ An additional 2% of the Settlement Fund was allocated to Programmatic Relief – which, as noted, has already been paid.

1. Baseline Calculation

1. **Determine the amount of money available for distribution.** The amount available for distribution is the Flint Water Settlement Fund (“the Fund”) balance. In accordance with the ASA the Fund will include earnings minus costs and taxes already paid and administrative costs and taxes that will be owed in the future as the Fund is distributed and final processes are completed.
2. **Subtract the \$35 million Future Children’s Fund from the total.** This amount is allocated to the three groups of minors as required by the ASA. *See* ASA § 5.2.4.
3. **Subtract aggregate attorney fees.** If the Court rejects the *Report and Recommendation of the Special Master on Plaintiffs’ Motion for Distribution of Pro Rata Interest* filed simultaneously with this Report and Recommendation (“Recommendation on Interest”), the fees will be subtracted from the principal amount of the settlement excluding earnings (which, by definition, also excludes reductions for administrative costs and taxes, which are paid from earnings). The Court’s prior determination on fees provides that the aggregate fees (which include common benefit fees and direct fee payments) shall be 25% of the Fund. *Opinion and Order Granting in Part and Denying in Part Plaintiffs’ Motion for an Award of Attorney Fees and Reimbursement of Expenses [1458]; Denying Hall Objectors’ Motion to Review and Respond to Hourly Billing and Costs [1586]; and Denying the*

Chapman/Lowery Plaintiffs' Motion to Review and Respond to Hourly Billing and Costs [1710, 1722], ECF No. 2105, PageID.72087-88 (Feb. 4, 2022) (“Initial Fee and Expense Order”). If the Court accepts the Recommendation on Interest, the 25% amount for fees will be deducted from the total Fund that includes interest but also deducts administrative expenses and taxes as noted.

4. **Subtract Category 27B fees.** These fees are separately identified and included in the set award amounts identified in the ASA for Category 27B claims. Accordingly, these fees must be accounted for before computing the aggregate fees for all other claims.

5. **Net Total for Distribution to Claimants.** The remaining amount (under either attorney fee scenario) is the available net total to be distributed to approved claimants. Initial Fee and Expense Order, ECF No. 2105, PageID.72091.

6. **Allocation by Category.** This remainder is then allocated among the 30 compensation categories based on the number of approved claims¹⁰ in each category.

¹⁰ Approved claims includes those approved but with “missing information” defined as a required signature or an identity document (such as the Claimant’s or Next Friend’s driver’s license or other government issued I.D.). Such claims are approved for payment and such signatures or identification documents can be provided on the payment portal as described above. Claims that do not have a valid authorized Next Friend or Representative or that did not qualify for any compensation category are not approved for payment and are not included in the allocation computation. An Authorized Next Friend or Representative is required for any claim to be approved. ASA §§ 1.5, 21.12, ECF No. 1394-2, PageID.54128, PageID.54188.

- a. *Step One*: Divide the remainder among the six groups (Minor Child, Minor Adolescent, Minor Teen, Adult, Residential Property, and Business claims) (each a “Group” and collectively, “Groups”) based on the percentages identified in footnote 1 of ASA Exhibit 8 (as adjusted for removal of Programmatic Relief Fund).
- b. *Step Two*: Adjust the amounts available for the three Minor Groups to account for the reduction previously taken to allocate the amount required for the Future Children’s Fund proportionally based on percentages reflected in Exhibit 8 of the ASA. *See* ASA § 5.2.4 (“Future Minor Sub-Qualified Settlement Fund—\$35,000,000 to be taken on a prorated basis from the total amount allocated to the Minor Child, Minor Adolescent, and Minor Teen Qualified Settlement Funds”).
- c. *Step Three*: Calculate the total number of “points” for each category based on the number of claims approved in each category and the Grid ratio to x, y, z or AX (e.g. 2x, 1.5x, etc). For example, if 200 claims are approved for Category 1 then 400 points are assigned for Category 1 claims (200 x 2); if 200 claims are approved for Category 4 then 100 points are assigned for Category 4 claims (200 x 0.5); if 200 claims approved for category 8, then 400 points are assigned to Category 8 (200 x 2).

- d. *Step Four*: Calculate the sum of all “points” awarded within each Group. The calculation for adult “points” excludes Category 27B claims, for which set payment amounts are defined in the ASA.
- e. *Step Five*: Divide the total net dollars for each Group by the total points within each Group to arrive at respective values for x, y, z, and AX (e.g., if 2,000 total points are awarded for Minor Adolescent Categories 8-14, and \$20 million net dollars was calculated for the Minor Adolescent Group, then $y = \$10,000$ ($\$20M / 2,000$)). The total net dollars available for adults is reduced by payments for approved 27B claims and the remaining amount after that reduction is divided among categories 22 to 27A.
- f. *Step Six*: Calculate per claim values for each category based on ratios to x, y, z, or AX as defined in the ASA. For example, if $y = \$10,000$, then Category 10 (y) = \$10,000 and Category 9 ($1.5y$) = \$15,000 and Category 14 ($0.1y$) = \$1,000). For adults, Category 27B amounts are defined per ASA based on age of deceased claimant.
- g. *Step Seven*: Calculate the payment adjustments for claimants who were age 6 to 6 and a half during the First Exposure Period in the ASA as required by the ASA (ASA Exhibit 8, footnote 1, ECF No. 1319-2, PageID.40789) using the methodology explained below.

h. *Step Eight*: Calculate per claim values for Residential Property Damage claims based on the number of unique approved properties. The ASA provides that there is “[o]nly one award per owned or leased parcel of residential real property” and that “[n]o recovery shall exceed \$1,000 per parcel of residential real property. If the owner or lessee of such parcel of property changed during the period of April 25, 2014 through July 31, 2016, and as a result there is more than one Claimant for such parcel, then one PX award will be split pro rata by all who were owners or lessees during the period April 25, 2014 through July 31, 2016.” ASA Exhibit 8, ECF No. 1319-2, PageID.40826.

The individual Category 28 claim award is based on whether multiple claims were approved for the property. For example, if one claimant is approved for Category 28 for a property and the Category 28 award is determined to be \$1,000, then that claimant would receive a \$1,000 award. If two claimants are approved for Category 28 for the same property and the Category 28 award is determined to be \$1,000, then each such claimant would receive a \$500 award.

i. *Step Nine*: Calculate per claim values for Business Property Damage claims per business or parcel of real property and compare the total to the cap in the ASA. The ASA provides that there is “[o]nly one award

per business, or parcel of real property” and that “[n]o recovery shall exceed \$5,000 per business, or parcel of real property. If the owner of such parcel of real property changed during the period of April 25, 2014 through July 31, 2016, and as a result there is more than one Claimant for such parcel, then one BX award will be split pro rata by all who were owners during the period April 25, 2014 through July 31, 2016.” ASA Exhibit 8, ECF No. 1319-2, PageID.40827-40828.

- j. *Step Ten*: Calculate any excess value in Categories 28-30. Based on the analysis of the number of eligible claims in each of these categories, as noted below, I recommend that the full capped amount for each such claim be paid. After applying those caps, the next step is to calculate the excess funds and to reallocate the excess funds to the categories assigned to minor claimants. *See* ASA Exhibit 8, ECF No. 1319-2, PageID.40789, at n.1 (“Unused funds in the Adult and Property Damage Sub-Qualified Settlement Fund, Business Economic Loss Sub-Qualified Settlement Fund, and Programmatic Relief Sub-Qualified Settlement Fund will revert to the Minor Child, Minor Adolescent, Minor Teen, and Future Minor Sub-Qualified Settlement Funds.”).

7. **General Assessment of the Baseline Calculation for Categories 28-30**

Although the final numbers are still being determined (as the due diligence

process continues and final appeals are decided), it is possible at this point to conclude that the claims in Categories 28-30 will receive the maximum amount provided in the ASA for such claims: \$1,000 for each parcel of property in Category 28; \$5,000 for each parcel of business property (if defined in the claim) for Category 29; and \$5,000 for each business that documented a business loss in Category 30. Again, based on the data, there are excess funds assigned in the baseline calculation that are to be reallocated to the categories for minor claimants as required by the ASA.

2. Readjustment Calculation

The ASA requires that after this baseline allocation is calculated, it may be necessary to make an adjustment based on actual participation in the settlement. ASA Exhibit 8.2 (“Exhibit to Grid for Mathematical Adjustments to Maintain Relative Allocation Percentages in Footnote One of the Grid”), states:

The objective is to, if necessary, provide for an adjustment that uses the ultimate values of “X, Y, Z, AX, PX, and BX” in the grid, that will maintain the overall relative allocation relationships to the percentages listed in footnote one of the grid. This cannot be calculated with any reliability until the Claimants have submitted Claims and they have all been processed by the Claims Administrator.

ASA Ex. 8.2, ECF No. 1319-2, PageID.40838.¹¹

¹¹ The ASA also provides as follows:

At that time, the Claims Administrator will determine if any adjustment is ultimately needed to retain the relative allocation percentages in footnote one of the grid. If an adjustment is necessary, the Claims Administrator shall work with the parties and the Special Master to all agree on an

As required by Exhibit 8.2, the undersigned has evaluated options for the potential adjustments required by Exhibit 8.2. The adjustment process is intended to avoid anomalous outcomes – where the intent of the allocations is undermined simply by virtue of the number of claimants approved in any given category. As is obvious from the overall allocations and the provisions regarding transfer of excess funds, the settlement assets are targeted primarily to those who were minors at the time of the Flint Water Crisis: 79.5% of the original Fund is allocated to minors. The minors are subdivided into three Groups: those who were 6 years of age and younger at the time of exposure to Flint water (Minor Children); those who were between ages 7 and 11 (Minor Adolescents), and the older children who were between the ages of 12 and 17 (Minor Teens). The allocation to minors is a “sliding scale” with 81.13 percent of the minor allocation assigned to the youngest group of Minor Children and 12.58 percent and 6.29 percent of the minor allocation assigned to the two groups of children who were older at the time of the Water Crisis (Minor Adolescents and Minor Teens, respectively). The allocation to adults for injury

appropriate adjustment. In that event, the parties will prepare a recommendation to the court for any adjustment to be approved. The parties are confident that if it becomes necessary to make any such adjustment, they will be able to agree upon one.

Id. The undersigned has shared with counsel a preliminary analysis of adjustment scenarios. Some counsel have provided comments and those comments are being taken into account in developing the final recommendation to the Court.

claims is equivalent to the allocation to the two older groups of children combined. (The amount allocated to property and business are not pertinent to the adjustment process because those claims are “capped” and the ASA provides that the excess, if any, is to be reallocated to the minors as noted above.)

To determine the appropriate and equitable adjustment, I have tested various different approaches including an adjustment based on the ratio of the variables (y, z, and AX to x Minor Child)) and adjustments that account for the overall ratio between the allocation to all minors together and the allocation to adults for injury as a group. I note that the adjustment “math” is complicated by accounting for the value of the legionella death claims in the adult injury fund and by the need to create an equitable process for children who were between age 6 and one day and age 6 and a half at the time of exposure to Flint water per Exhibit 8.3.

Because of these factors and the variations in the numbers of claims in each category, the adjustments create some anomalies. Accordingly, I propose that the adjustment process incorporate certain general guidelines that should avoid inequitable results. My recommendation is that the adjustment process should achieve an equitable result within the following parameters: (1) a baseline limit so that no claim is awarded less than \$1,000 (before any applicable deductions) for Categories 1-27; (2) Adult injury claims should not receive more than the amount for Minor Children with the same injury or same ‘multiplier’ when compared to the

variables x and ax ; (3) the Minor Adolescent and Minor Teen categories should be awarded less than the amounts for Minor Children with the same condition; (4) awards for Minor Adolescents should not be lower than the awards for Minor Teens with the same condition as a result of the smoothing process required for claimants who are between 7 years old and 7 years and six months old; (5) the values for Adults should bear a reasonable relationship to the values for Minor Adolescents and Minor Teens and (6) the values for claimants exposed to Flint Water after July 31, 2016 should not be higher than values for those with exposure before that date in the same age Group. These recommendations are based upon the underlying facts of lead's impact on the developing brain.

3. Explanation of “Smoothing” of Monetary Awards for Children Between Ages Six and Six and One Half

The ASA provides that the “Monetary Award amounts for minors between ages six, and six years and six months, at the time of first exposure to Flint water will be smoothed out so that, for example, a six year old does not receive a vastly different Monetary Award than a six year and one month old.” ASA Exhibit 8, ECF No. 1319-2, PageID.40789, at n.1. Examples of the “smoothing out of Monetary Awards between ages six and six years and six months (showing a monthly 6% reduction of such awards from the prior month for each of those six months),” *id.*, are included at Exhibit 8.3 of the ASA, which states:

Children who were over six years old by six months or less at the time of first exposure to Flint water will have their awards calculated as a percentage of the award amounts for children six years old or under. This will be done by applying, for each month over six years old, a six percent reduction in the award amount that would be given to a child one month younger. For example, if a child who was 6 or younger would be paid \$10,000, then a child who was six years and one month would be paid \$10,000 minus \$600 (6% of \$10,000) for a total of \$9,400, and a child who was six years and two months old would be paid \$9,400 minus \$564 (6% of \$9,400) for a total of \$8,836.

ASA Exhibit 8.3, ECF No. 1319-2, PageID.40840.

The calculation follows this methodology and computes values for all Minor Adolescents who were over six years old by six months or less at the time of first exposure to Flint water in accordance with this rule, resulting in separate computed values for all minors approved in each of Categories 8 through 14 separately for each of the six month monthly periods (7 and less than one month, 7 and one month, etc.). This results in 42 additional individual claim values (7 categories for each of the six monthly periods). The application of this formula, which is required by the ASA, results in necessary deductions from the baseline awards calculated for the older children in the Minor Adolescent Group. As noted above, in applying the adjustment process, it is reasonable to consider accounting for the effect on the remaining Minor Adolescent claimants so that their awards are not reduced below the awards for the Minor Teen Group. If the Court approves of this methodology and once all appeals currently in process are finalized and all data validation has

been completed, I can provide to counsel and the Court a final allocation chart for review.

4. Additional Distributions for LAN and VNA Settlements

The Court has approved additional settlements following the final approval of the ASA. On May 21, 2024, the Court issued the *Order Granting Plaintiffs' Motion for Final Approval of Class Settlement with LAN Defendants [2827]*, ECF No. 2968, PageID.99479-99482 (May 21, 2024). This order approved a settlement with Leo A. Daly Company, Lockwood Andrews and Newnam, Inc., and Lockwood and Newnam, P.C. (collectively, "LAN") (the "LAN Settlement") that totaled \$8 million – which is to be split evenly between Class Plaintiffs and the Individual Plaintiffs. I recommend that the final payment computation include the LAN payment for all Individual Plaintiffs with an approved claim under the ASA. The award amount would be calculated by applying the percentage of the total award under the ASA assigned to each claimant and multiplying that percentage by the total amount of the LAN fund assigned to the Individual Plaintiffs.

On April 3, 2025, the Court issued its *Order Granting the Agreed Motion for Approval of the Individual Claimants Settlement Agreement [3205] and Granting Individual Plaintiffs' Motion for Approval of Allocation Procedure and Attorney Costs Regarding Plaintiffs' Settlement with Veolia [3207]*, ECF No. 3217, PageID.108323-108325 (Apr. 3, 2025). This order approved the February 20, 2025

settlement between Veolia and Individual Plaintiffs represented by Levy Konigsberg, LLP and/or Napoli Shkolnik PLLC. (the “VNA Individual Firm Settlement”). I recommend that the final payment calculation for claimants represented by these two firms include the VNA payment, which would be calculated proportionally based on the claim award calculated above under the ASA as specified in the VNA Individual Firm Settlement.

At this time, the payments for the portion of the LAN settlement allocated to class plaintiffs and the class settlement with VNA¹² cannot be distributed. This is because the plaintiffs in each of these two classes include individuals who are not participants in the ASA and because the criteria for compensation in the VNA class settlement are different than those in the ASA. Accordingly, the allocation of those settlements cannot be accomplished by a simple percentage computation. Those payments will be issued in a second distribution.

I. Recommendation to Eliminate Certain Deductions in the Payment Process

On February 4, 2022, the Court issued its *Corrected Order Directing the Michigan Department of Health and Human Services to Provide Access to Birth Certificates as Specified Herein to Aid in the Implementation of the Partial*

¹² See *Order Granting Class Plaintiffs’ Motion for Final Approval of Class Settlement with VNA Defendants [3139]*, ECF No. 3162, PageID.107946-107949 (Oct. 3, 2024).

Settlement, ECF No. 2107, PageID.72183-72186 (Feb. 4, 2022) (“Birth Certificates Order”). The purpose of the Birth Certificates Order was to enable claimants to obtain birth certificates that were necessary to establish the identity of a minor claimant and in most cases confirm the appropriate Next Friend for minor claimants. Under the Birth Certificates Order, the Division for Vital Records and Health Statistics of the Michigan Department of Health and Human Services (“Vital Records”) may charge up to its normal fees and costs for providing searches for birth certificates or affidavits of parentage. *Id.* at PageID.72185. During the claims process, Vital Records has submitted various invoices for these costs, which the Special Master’s office has reviewed and recommended adjustments where appropriate. Vital Records has agreed to all such adjustments and the Court has authorized payments. The Birth Certificates Order further provided that “[u]pon authorization of the Court to pay such invoices from the Qualified Settlement Fund, the Claims Administrator will subsequently deduct from each relevant Claimant’s Monetary Award any fees and costs charged by Vital Records for obtaining the birth certificates or affidavits of parentage.” *Id.* at PageID.72186.

Under the Order, the Settlement Fund was charged for each search – regardless of whether the search was able to locate and provide a birth certificate for the claimant. Thus, in many cases, the costs incurred by the Fund include charges on behalf of Claimants whose birth certificates could not be provided via this process.

Further, costs were incurred to obtain birth certificates that were provided even when the claimant was not found eligible to receive payment under the ASA, and thus there is no award from which such an expense could be deducted. Additionally, in some cases where multiple claims were submitted for the same claimant, requests for birth certificates may have been submitted by more than one law firm and/or the claims administrator, and duplicate charges may have been incurred. In light of the above, and the administrative burden of establishing a system to deduct a charge of \$34 from the awards of thousands of individual Claimants, the undersigned believes that the time and expense that would be required to identify *de minimis* charges that could be deducted from individual claimants could likely be more than the amounts recoverable by the Fund. I therefore recommend that the Court eliminate the requirement that the cost of obtaining birth certificates be charged to the individual claimants.¹³

¹³ In the course of implementing the settlement but before the Special Master's office obtained authority from the Probate Court to utilize a streamlined document for the purpose of confirming an appropriate Next Friend for deceased claimants, several claimants were instructed to open full probate actions in order to file their claims. These claimants incurred significant costs in doing so – and those costs were not necessary to the process. Accordingly, I recommend that those claimants be reimbursed for their expenses. The total dollar amount for all such claimants (23 total) is \$3,975.

J. Deduction of Other Costs

Under applicable court orders, and terms of the ASA, other costs and expenditures must be deducted from settlement awards. These costs include:

- Cognitive deficit testing costs incurred by counsel on behalf of minor claimants;
- Bone lead testing expenses incurred by counsel for claimants. *See Order Establishing Procedures for Management of Claims Process and Expense Payment for Unrepresented Claimants and for Claimants with Multiple Counsel*, ECF No. 2180, PageID.72985-72989 (June 22, 2022);
- Other expenses incurred by counsel to the extent approved by the Court or Special Master;¹⁴
- Liens lawfully asserted by Medicare for recovery of expense of covering the cost of medical services to eligible claimants who are Medicare entitled as noted above.¹⁵ *See* ASA § 5.7; Art. XV.

K. Payment Portal and Payment Distribution

Following is a more detailed description of the payment process – supplementing the discussion above. As described above, the Court approved the engagement of a distribution vendor, which has programmed a payment system so

¹⁴ Counsel have been asked to provide expense requests to the Special Master's office. The undersigned will provide a recommendation to the Court regarding whether such expenses should be deducted.

¹⁵ Based on discussions with CMS to date, it appears that the amounts deducted for such liens will be relatively modest. These deductions will be applied only to those claimants who are Medicare eligible and who received medical services paid for by Medicare for conditions that Medicare has determined are within the scope of the ASA compensation terms.

that approved claimants can elect their preferred form of payment among several options that will allow for direct electronic payment (which is faster and more secure than check payments).

Property Damage Claims. I recommend paying claims in groups to facilitate the payment process and enable faster distribution. Specifically, I recommend commencing payment of certain awards for Residential Property Claims first, as those claims do not involve deductions and have uniform payment amounts, and payment of those claims first will enable the Distribution Administrator to ensure proper system validation for electronic payment and check distribution. I will advise the Court when the payment system is ready to issue such payments.

Distribution to Minors. The ASA and Michigan law at the time of the ASA prohibit (as the law exhibited at the time) payment of more than \$5,000 for compensation awards for minors directly to Next Friend (legal representative). *See* ASA § 21.28; MCR 2.420(B)(4), MCL 700.5102. Any amounts above that, must be paid either by purchasing a structured settlement or by deposit into one of the two trusts approved by the Court.

The representatives of many minor claimants have already submitted payment election forms. If a legal representative for a minor claimant elects a trust option, the representative will sign a trust joinder agreement and that claimant will

participate in a pooled trust.¹⁶ If a legal representative elects a structured settlement, the legal representative will define the terms of the structure and will sign an additional agreement to secure the structure. In a structured settlement, a lump sum is paid to an annuity company and that annuity company is then obligated to make payments over time based on an agreed schedule. The funds will be invested by the annuity company before the time that payments are made and the earnings (if properly established as set forth in the agreement) are tax free to claimant. Under this option, the minor child will be able to receive funds directly after reaching the age of majority.

L. Attorneys' Fees

The lead lawyers have been paid certain common benefit fees and expenses in accordance with the Court's order but have not been paid any fees in connection with the actual claims or pursuant to fee agreements with their clients. The settlement process is set up so that individual claimants do not have to worry about paying any fee directly to lawyers. The fees that are authorized by the Court will be paid separately to the lawyers for claims processed and they will be paid once the amounts allocated to claimants are determined and will not be paid until the payments to claimants have commenced.

¹⁶ The Court has approved two trusts: a settlement preservation trust and a special needs trust. *See supra.* at 33.

M. Conclusion

The settlement requires that the amount payable to claimants must be divided among all of the approved claims. Based on a preliminary analysis, most award levels will be modest. It is anticipated that the that highest possible award – which will be for those children who were youngest at the time of exposure to Flint water in the period April 25, 2014 to July 31, 2016 and who had the highest lead levels based on documented testing – may be in the range of approximately \$100,000. All other awards – for young children without such high lead levels or for older children and adults – will be considerably lower.

I ask for the Court's permission to commence distribution of payments in accordance with this Report and in accordance with a final allocation to be submitted based on the Court's determination of the allocation methodology, the treatment of interest earned on the Fund, the elimination of certain deductions, and the accounting for accrued and future administrative costs. I have submitted with this Report a proposed order addressing the recommendations in this Report for the Court's consideration.

Respectfully submitted,

Dated: November 21, 2025

/s/ Deborah E. Greenspan

Deborah E. Greenspan

Special Master

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CERTIFICATE OF SERVICE

I certify that on November 21, 2025, I electronically filed the foregoing document with the Clerk of the Court using the Court's ECF system, which will send notification of such filing to attorneys of record.

Dated: November 21, 2025

/s/ Deborah E. Greenspan

Deborah E. Greenspan

Special Master

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