

# Racketeering lawsuit filed against Michigan governor, officials over Flint poisoning

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On Wednesday, a class action lawsuit was filed in the US District Court in Flint against Michigan Governor Rick Snyder and other officials on behalf of hundreds of residents who were poisoned by the city's 2014 switch to the toxic and corrosive Flint River as a water source. The civil suit makes federal racketeering claims under RICO, or Racketeer Influenced and Corrupt Organizations Act, the 1970 US anti-organized crime legislation signed into law by US President Richard Nixon.

The racketeering suit is but the last of a string of legal actions being brought against Snyder as a result of the disaster in Flint. A "Notice of Intention to File Claim" filed on March 24 by the City of Flint has shaken Snyder's administration, prompting threats of cutting promised funds to the city. Mayor Karen Weaver has stated publicly that the filing was only to keep the option available in the future and that she has no intention of suing at present.

The plaintiffs in the RICO lawsuit—filed by Bern Ripka LLC, a prominent personal injury firm practicing out of New York City, and two law firms from Southfield, Michigan—are Flint residents Lawrence Washington Jr., five children, numerous other residents and "a class of all others similarly situated."

Although RICO was originally enacted to prosecute Mafia-organized criminal activity, it has since been applied more widely. Criminal prosecution, however, must be litigated by federal or state courts, neither of which has initiated prosecutions against Snyder or any of the numerous individuals, both Democrats and Republicans, who are responsible for the two-year poisoning of Flint's water supply.

RICO can be invoked in a civil suit, but those citing it must prove that those accused are guilty of criminal, or "predicate acts" under federal RICO statutes. Simply

proving negligence is not adequate to invoke RICO statutes.

The defendants named in the 118-page brief include Snyder and several Michigan officials in the Department of Environmental Quality (MDEQ), the Department of Health and Human Services (MDHHS); former Flint emergency managers Darnell Earley, Ed Kurtz and Gerald Ambrose; and former Flint Mayor Dayne Walling. The suit also names private companies Rowe Professional Service Company; engineering consulting and contracting company, Lockwood, Andrews and Newnam, Inc. (LAN); and Veolia North America, a division of the world's largest private water company.

According to the lawsuit, each of the named defendants played a role in the defrauding of the residents of Flint, charging them high rates for poisoned drinking water that they claimed was safe.

The suit charges Snyder with formulating "an intentional overarching RICO scheme based on Flint's run of the mill fiscal problems in order to balance the books of the City of Flint by collecting \$50 million dollars for water bills for toxic water from the free Flint River water source."

In other words, Snyder made the decision to eschew other means of addressing Flint's fiscal problems and hatched a "wrongful scheme" to raise millions of dollars by selling the "free water" from the Flint River, which he knew was not safe, to residents at exorbitant rates. With his co-conspirators, he fraudulently presented the water as complying with federal drinking water regulations.

According to the filing, all three emergency managers—Kurtz, Earley and Ambrose—"knew they were switching to the unsafe, contaminated and toxic but free water source from the Flint River in

furtherance of the over-arching fiscal scheme to balance the budget at all costs in conscious disregard of the health, property, and prosperity of the citizens of Flint,” and that “these acts were done in order to prevent the irate citizens of the City of Flint from knowing that the money cost-cutting plan to balance the budget and alleviate the City’s Financial Emergency was to give them toxic water for two years.”

Veolia is charged for issuing a report that was presented to the Flint City Council in February 2015 that stated that the city’s water was “in compliance with drinking water standards.”

Other private defendants, Rowe and LAN, “knew as a matter of fact that they were aiding the enterprise and became associated in the scheme and conspiracy of the RICO defendants to deliver and bill for untreated, toxic free water to the entire City of Flint.”

The court filing reads as a powerful indictment of key state and local figures involved in the conspiracy. Its approach, however, is narrow.

The crime against Flint takes place in a long-term and ongoing attack by corporate and governmental bodies run by both capitalist parties. The federal Environmental Protection Agency (EPA), overseen by the Obama administration, is barely mentioned in the brief. Though the filing reserves the right to add Region 5 director Susan Hedman to its list of defendants, the role played by the EPA over years that encouraged and abetted the malfeasance of Michigan authorities does not get a mention.

Even more directly involved in the scheme to sever Flint from its longstanding source of safe drinking water was Andy Dillon, the Democratic State Treasurer who approved the switch to the yet-to-be-built KWA pipeline. He, more than anyone knew of what was taking place, since the report he commissioned in early 2013 recommended against the switch. He still made the “ultimate decision,” according to Snyder Chief of Staff Dennis Muchmore in a September 2015 internal email cited in the brief. Yet he was not named as a defendant.

Dillon also was the architect of Snyder’s first emergency manager law, Public Act 4, which was thrown out in a popular referendum in November of 2012. Weeks later, it was redrafted and passed almost in its original form, as Public Act 436. This law gave

the state authority to impose emergency managers to dictate over both Flint and Detroit. The EM in Detroit, Kevyn Orr, was working to privatize the DWSD, but had to settle on breaking it up.

The KWA plan initiated a regional “water war” that fell into line with the pillaging of Detroit through the forced bankruptcy process. The City of Flint was the DWSD’s largest customer. Losing its revenues would be advantageous to those seeking to leverage the bankruptcy to get their hands on one of Detroit’s most valuable resources.



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