

ALERTS**Energy, Telecommunications And Utilities And Government Services Law Alert - Plaintiffs Denied In Flint, Michigan, Water Lawsuit**

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On Feb. 2, a federal district judge dismissed a constitutional civil rights suit brought by residents of Flint, Michigan, seeking damages for lead-contaminated drinking water. In *Melissa Mays, et al., Plaintiffs, v. Governor Rick Snyder, et al., Defendants*, a class of Flint residents, the plaintiffs, brought claims against state and city officials alleging, among other federal claims, violations of substantive due process and equal protection under 42 U.S.C. § 1983 arising out of the contamination of drinking water in Flint. Plaintiffs also brought a state law claim arising under Michigan's Elliott-Larsen Civil Rights Act.

U.S. District Judge John Corbett O'Meara dismissed the plaintiffs' federal claims on the grounds that such claims were precluded by the Safe Drinking Water Act (SDWA), saying "[t]he elaborate enforcement scheme of the SDWA...leads [the Court] to conclude that § 1983 claims seeking to remedy unsafe drinking water would be 'inconsistent with Congress' carefully tailored scheme.'" (The judge quoted *Smith v. Robinson*, which found the Education Handicapped Act provided the exclusive remedy even when plaintiffs asserted constitutional claims.)

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