



Civil Rights Coalition Files Class Action Lawsuit Challenging Detroit Water Shutoff Policy

Lawsuit condemns racial disparities in water shutoffs and asks court for permanent solution in Detroit

Flint pediatrician Dr. Mona Hanna-Attisha, who exposed high lead levels in Flint children, supports lawsuit and declares water critical to preventative healthcare

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Contact: Ann Mullen, amullen@aclumich.org, 313-400-8562

Juan Martinez, media@naacpldf.org, 212-965-2200

DETROIT, Mich. — Today, a coalition of civil rights organizations filed a class action lawsuit in federal court to make water affordable and permanently end water shutoffs for Detroit residents. The city's water rates are among the highest in the nation. Combined with a high poverty rate, especially among Black Detroiters, many families are unable to pay their water bills, leaving them at risk of losing service due to non-payment. Some families live for years without water service, while others are trapped in a cycle of water insecurity with repeated disconnections and reconnections.

A longstanding water shutoff policy exposes thousands of Black Detroit residents to disease and racial discrimination that renders affected households defenseless against infection, especially during a pandemic. For years, Detroit residents, health experts, and advocates have been calling on city officials, state legislators, and governors to develop a plan or pass legislation for water affordability. These plans have failed to materialize, and legislative leadership has prevented passage of the bills.

In addition, the Governor's executive order signed yesterday to expand the moratorium on water shutoffs will eventually end, and there is no plan to ensure Detroiters will have access to water once it does, despite all the evidence that water is an essential source of preventative health care at all times. And while the order provides relief for overages and past due bills for some customers, it doesn't address the high-water rates that cause residents to fall behind on their water bills. In fact, the order makes clear that it does not relieve customers of the obligation to pay their water bills or prevent municipalities from charging customers for water during the pandemic. Also, Detroit Mayor

Michael Duggan has stated that water service shutoffs will resume as a collection method against families who cannot afford to pay when the immediate threat of the pandemic is over.

“For 15 years our civil rights coalition has been fighting at every level of government to permanently put an end to water shutoffs, a policy that harms the health and wellbeing of impoverished Black Detroiters,” said Mark Fancher, ACLU of Michigan Racial Justice Project attorney.

“While the Governor's temporary moratorium on water shutoffs during the pandemic is a step forward, the moratorium will expire and Detroiters will once again be left without solutions and with huge bills they cannot possibly afford, forcing residents back into the cycle of water shutoffs. It is time to throw shutoffs on the dust heap of deeply disturbing practices that contribute to the structural racism our nation is finally attempting to dismantle.”

The lawsuit describes the bleak conditions Detroiters have experienced because of the water shutoff policy. A few of the plaintiffs bringing the lawsuit include:

- Jacqueline Taylor, a Black Detroit resident, who owns her home. Ms. Taylor's monthly average income from Social Security benefits is \$860. In 2016, Ms. Taylor was hospitalized and in a rehabilitation center for a hip replacement. At that time, no one was living in her home or using her water. After returning home from her surgery, Ms. Taylor received a bill from DWSD for water usage totaling about 75,000 gallons during that period. The bill was between \$1,500 and \$2,000. Believing she was overbilled, Ms. Taylor contacted DWSD, but the department refused to adjust it and eventually disconnected her water in mid-2018. By that time, DWSD claimed that she owed nearly \$6,000 in arrearages. Ms. Taylor lived without water service from mid-2018 until March 2020, when DWSD reconnected it during the pandemic. Her current monthly bill is \$25, but she still owes back payments. Ms. Taylor will be at immediate risk of losing water service when Detroit resumes water shutoffs.
- Lisa Brooks, a Black Detroit resident, has rented her home for 10 years. She lives in the home with her two children, ages 14 and 16. Ms. Brooks's monthly income is approximately \$1,200 from Social Security disability. She has chronic obstructive pulmonary disease, diabetes, arthritis, and other breathing issues. She must use a portable oxygen tank to assist her breathing. Ms. Brooks's 16-year-old son has asthma and uses a nebulizer, which requires the use of water. Under the terms of her lease, Ms. Brooks is required to pay her water bill, which is in her name. DWSD first disconnected Ms. Brooks's water service in 2018. She and her children lived without water for about a year. In 2019, Ms. Brooks was able to have her water reconnected as she had entered into a payment plan with DWSD, which required her to pay her current monthly bill (typically around \$100 a month) plus \$98 per month. This was approximately 17% of Ms. Brooks's total monthly income. When Ms. Brooks was unable to keep up with the payment plan, DWSD disconnected her water service again in the winter of 2019. Ms. Brooks and her children lived without water until March 2020. Ms. Brooks currently owes DWSD around \$2,000 in arrearages and will be at immediate risk of having her water shut off when Detroit resumes water shutoffs.
- Michele Cowan is a Black resident of Detroit and owns her home with her 23-year-old daughter. Ms. Cowan lives with two of her adult daughters and her two grandchildren, ages two and six. Her family's income is approximately \$1,300 per month. DWSD disconnected Ms. Cowan's water service in August 2019 for approximately \$700 in arrearages, which she still owes. Ms. Cowan and her family lived without water from August 2019 until March 2020. During this time, We the People of Detroit provided Ms. Cowan and her family with bottled water for drinking, bathing, cleaning, and sanitation. She would receive eight to 10 cases of water every two weeks from the organization. DWSD reconnected Ms. Cowan's water service in March 2020, after the announcement of the Water Restart Plan, and will be at immediate risk of having her water shut off when Detroit resumes water shutoffs.

Detroit's water shutoff policy violates the civil rights of thousands of the city's residents by forcing them to live without a service essential to their health. Water shutoffs disproportionately affect Black Detroiters in violation of the Fair Housing Act and the Elliott-Larsen Civil Rights Act, the lawsuit alleges, and pose a severe threat to public health by making hand washing and other cleaning practices an impossibility. The lawsuit seeks to permanently end the water shutoff policy and asks for a court order immediately preventing shutoffs from resuming.

"People cannot live without water, families can't function without it, and communities cannot be safe if they don't have water before, during and when the pandemic ends," said Alice B. Jennings, founding partner of Edwards & Jennings, PC. "Every leader in Michigan has a moral responsibility to make sure families have access to water. Solutions have been implemented in other cities across the country, and Detroit families deserve a solution too. We urge state and city officials to come together immediately to create a water affordability plan. It is the fair and humane thing to do."

The same population hardest hit by the COVID-19 pandemic is disproportionately affected by the city's water shutoff policy. From January 2017 to July 2018, 95% of water shutoffs occurred in Census tracts with a majority-Black population, and only 5% occurred in tracts that had a population that was less than 50% Black. Detroit Census tracts with a less than 50% Black population had, on average, 64% fewer shutoffs per 1,000 people than tracts with a majority-Black population. These disparities are statistically significant and persist even when controlling for differences in income and the number of unoccupied homes in Detroit. These disparities also persist when comparing majority-Black tracts to majority-white tracts. Water shutoff data reviewed for the period between January 2019 and January 2020 had the same level of disparities.

"People should not be punished for being poor and Black," said Coty Montag, Senior Counsel for the NAACP Legal Defense and Educational Fund, Inc. "If state and city officials are serious about ending structural racism, as they claim to be, they can start by putting an end to Detroit's water shutoff policy today and instituting an effective water affordability plan. This case reaffirms LDF's commitment to combating discrimination in municipal water practices."

The civil rights coalition is calling for Detroit to adopt a water affordability plan, similar to plans adopted long before the current pandemic by the cities of Baltimore and Philadelphia that were put in place to protect the health and wellbeing of its citizens.

"Water is a medical and public health necessity," said Dr. Mona Hanna-Attisha, Hurley Medical Center pediatrician. "Depriving people of water is anti-prevention, anti-science and anti-common sense. If the Flint water crisis taught us anything, it's the need to focus on prevention and not wait until we can prove harm."

Other attorneys on the case include Lorry Brown of the Michigan Poverty Law Program, Monique Lin-Luse and Jason Bailey of the NAACP Legal Defense and Educational Fund, Inc., Dan Korobkin and Bonsitu Kitaba-Gaviglio of the ACLU of Michigan, and Detroit attorneys Melissa El Johnson and Kurt Thornbladh.