

Notice of Proposed Benton Harbor Water Class Action Settlement Between Residents and the City of Benton Harbor

United States District Court for the Western District of Michigan

Braziel, et al. v. City of Benton Harbor, et al., No. 1:21-cv-00960-HYJ-PJG

A court authorized this Notice.

This is not an advertisement or a solicitation from a lawyer.

A proposed settlement has been reached in a class action lawsuit claiming that the City of Benton Harbor, Michael O'Malley, Darwin Watson, Ellis Mitchell, and Marcus Muhammad ("City Defendants") harmed Benton Harbor residents by causing and/or prolonging lead levels above state and federal limits between 2018 and 2021. The current settlement provides for a \$25 million consent judgment of liability against the City, to be drawn exclusively from assigned claims seeking recoveries from the City's Insurance ("Assigned Claims").

- In the settlement, the City represents that it does not have any money to pay to Benton Harbor residents other than what it could raise from the residents themselves through taxes. Since it cannot pay money itself, the City has agreed to allow the Class to pursue that money from the City's insurers.
- Any funds collected from the City's insurance in satisfaction of the Consent Judgment or as a result of the Assigned Claims will establish a Settlement Fund to pay cash payments to members of the Class and Plaintiffs in the action *Mitchell et al. v. City of Benton Harbor et al.*, No. 1:22-cv-0475-HYJ-PJG (W.D. Mich.) ("*Mitchell* Action"), notice and administrative costs related to the settlement, plaintiffs' attorneys' fees and expenses, and any service awards for the Class Representatives.
- The settlement releases all claims against City Defendants involving the ingestion of lead as a result of the elevated lead levels.
- The Class consists of all individuals who resided in the City of Benton Harbor for a period of two weeks or more from August 2018 through November 2021 and who are not Plaintiffs in the *Mitchell* Action. To find out if you are a member of the Class, go to www.BentonHarborWaterSettlement.com.
- **There are no cash payments available at this time.** There will only be money available if Plaintiffs are successful in winning money from the City's insurance.
- **Please read this notice carefully.** Your legal rights will be affected whether you act or not. You have the following options: (1) do nothing and remain eligible to receive a potential future payment or (2) object to the settlement by May 6, 2026.
- You can get a complete copy of the proposed settlement and other key documents in this lawsuit at: www.BentonHarborWaterSettlement.com.

YOUR LEGAL RIGHTS AND OPTIONS

OPTION	WHAT IT MEANS
Do Nothing	If you do nothing, you will remain in the Class and be eligible to receive a future payment if Plaintiffs are able to win any money from the City's Insurers. You will be bound by the Court's judgment.
Object to the Settlement	You may object to the settlement by May 6, 2026, by writing to the Court and informing it why you do not think the settlement should be approved. You will still be bound by the settlement if it is approved. If you object to the settlement, you are telling the Court you do not think the settlement should go forward. You cannot ask the Court to make changes to the settlement.

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Basic Information

1. Why did I get this Notice?

You got this Notice because records show you may have resided in the City of Benton Harbor from August 2018 through November 2021.

This is a class action lawsuit about the City Defendants' conduct regarding elevated lead levels in the City of Benton Harbor. The litigating parties have reached a proposed settlement that must be approved by the Court.

The Court authorized this Notice because you have the right to know about the proposed settlement of this class action lawsuit and about all your rights and options before the Court decides whether to grant final approval of the settlement. This Notice explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for the benefits, and how to receive those benefits.

2. What is this lawsuit about?

This lawsuit alleges that City Defendants mismanaged the City's Water Department and hid material information about the toxicity of the water from residents. You can get more information about the lawsuit and view related court documents, including a copy of the Class Action Complaint, at www.BentonHarborWaterSettlement.com.

3. Why is this a class action, and who is involved?

In a class action lawsuit, one or more people called "Named Plaintiffs" or "Class Representatives" sue on behalf of other people who have similar claims. Together, the people with similar claims are a "Class" and are called "Class Members." In a class action, the court resolves the issues for all Class Members. Each Class Member is bound by the result of the lawsuit, including any settlement. That means Class Members may not file their own lawsuits regarding the same claims that were decided in the class action.

Here, the Class includes all individuals who resided in Benton Harbor for a period of two weeks or more from August 2018 through November 2021 and who are not Plaintiffs in the *Mitchell* Action. Property ownership is not required. To find out if you are a member of the Class, go to www.BentonHarborWaterSettlement.com.

4. Why did the parties settle?

The lawsuit has not gone to trial, and the Court has **not** decided in favor of the Named Plaintiffs or the City Defendants. Instead, the Named Plaintiffs and City Defendants have agreed to settle the lawsuit. The Named Plaintiffs believe that the settlement offers practical benefits to all Class Members and that the terms of the settlement are fair, reasonable, adequate, and in the best interest of the Named Plaintiffs and all Class

Members. The City Defendants agree to a consent judgment of liability against them for the claims at issue in this litigation based on the exposure and risk of an adverse judgment.

This class action settlement arises out of a lawsuit brought by various members of the Benton Harbor community against the City of Benton Harbor, Michael O'Malley, Ellis Mitchell, and Marcus Muhammad ("City Defendants") alleging that City Defendants violated residents' constitutional rights by causing, prolonging, and downplaying the existence of lead levels above state and federal limits, and encouraging or allowing residents to consume water with elevated lead levels without their consent. City Defendants deny that they violated residents' constitutional rights and contend instead that they took required action under the Safe Drinking Water Act. The plaintiffs contend that City Defendants' actions violated the Fourteenth Amendment of the U.S. Constitution, which protects individuals' right to due process, including the right to bodily integrity and autonomy. A violation of a person's due process right to bodily integrity is only actionable under 42 U.S.C. § 1983 if the conduct shocks the conscience and no countervailing government purpose justified the Defendants' conduct. If the conduct is determined to be actionable, a jury can assess damages depending on the harm that plaintiffs incurred and Defendants' state of mind. If the jury finds that plaintiffs incurred no cognizable or dignitary harm, the defendant owes \$0.

Trial was set to begin in February 2026. The parties then reached a settlement. The litigation involved significant uncertainties. If the case had proceeded, it is possible that the district court would have denied class certification and/or grant summary judgment, with Class Members receiving nothing. If the case had gone to trial, it is possible Named Plaintiffs or the Class could have lost, again with Class Members receiving nothing. Even if the class could have prevailed at trial and later on likely appeals, a jury might have awarded a wide range of amounts, to be paid only after the added expense and delay of the trial and its likely appeals.

The resulting settlement assigns the City's right to claims it has under or against the City's insurance, and provides that any funds collected from the City's Insurance in satisfaction of the \$25 million Consent Judgment will establish a Settlement Fund to pay cash payments to members of the Class and Plaintiffs in the *Mitchell* action, notice and administrative costs related to the settlement, plaintiffs' attorneys' fees and expenses, and any service awards for the Class Representatives. The insurance declaratory action is currently being litigated in the United States District Court for the Western District of Michigan: *City of Benton Harbor v. The Travelers Indemnity Company of Connecticut et al.*, No. 1:25-cv-00861-HYJ-PJG (W.D. Mich.).

Who Is in the Settlement?

5. What is the Class?

The Class includes all individuals who resided in the City of Benton Harbor for a period of two weeks or more from August 2018 through November 2021 and who are not Plaintiffs in the *Mitchell* Action.

6. How do I know if I am in the Settlement Class?

You are receiving this Notice because you may be a Class Member. **If you resided in the City of Benton Harbor for a period of two weeks or more from August 2018 through November 2021, and are not a plaintiff in *Mitchell et al. v. City of Benton Harbor et al.*, No. 1:22-cv-0475-HYJ-PJG (W.D. Mich.) (“*Mitchell Action*”), then you are a Class Member.**

An official map of the City of Benton Harbor is available at the following link:
<https://www.berriencounty.org/DocumentCenter/View/5300/Benton-Harbor>
(<https://perma.cc/7PMK-SSKW>)

7. What if my home did not have a lead service line?

It is not necessary that your home had a lead service line to be a Class Member. Plaintiffs allege that high levels of lead were present throughout the distribution system due to corrosivity of the water. Moreover, because the majority of homes in Benton Harbor were constructed prior to 1986, many may still be plumbed with pipes that were joined with high-lead-content solder. Finally, water with elevated levels of lead may have been consumed elsewhere in the community at locations such as schools, work, restaurants, friends’ houses, and church.

8. I’m still not sure if I am included.

If Notice was mailed to you, then you were listed as a potential Class Member. If you are still not sure whether you are included, you can get help at www.BentonHarborWaterSettlement.com, by calling (800) 309-7473 ext. 5359, by emailing BentonHarborWaterSettlement@lchb.com, or by contacting any of the lawyers listed in response to Question 15.

9. I believe I am a Class Member, but I did not receive the notice by mail.

You may be a Class Member even if you did not receive an individual notice by mail. We are still gathering some Class Members’ contact information and will continue sending notice by mail until March 23, 2026.

Regardless of whether you received a notice by mail, if you are a Class Member, you can choose to do nothing and remain in the class or you can object to the settlement. You can obtain a notice at www.BentonHarborWaterSettlement.com, by calling (800) 309-7473 ext. 5359, by emailing BentonHarborWaterSettlement@lchb.com, or by contacting any of the lawyers listed in response to Question 15.

If you are a Class Member and did not receive notice by mail, you are still bound by the terms of the Settlement.

Benefits of the Settlement

10. What does the settlement provide?

While the settlement does not provide any cash payments at this time, it provides the Class and Plaintiffs in the *Mitchell* Action the opportunity to pursue, via Counsel, money from the City's Insurers. Specifically, under the settlement, the City of Benton Harbor has agreed to assign its right to claims it has under or against the City's Insurance pertaining to the class action ("Assigned Claims"). Any funds collected from the City's Insurance in satisfaction of that Consent Judgment will establish a Settlement Fund to pay cash payments to members of the Class and plaintiffs in the *Mitchell* Action, notice and administrative costs related to the settlement, plaintiffs' attorneys' fees and expenses, and any service awards for the Class Representatives. In short, while the settlement does not establish a Settlement Fund at this time, it provides that any money recovered from the City's Insurance will be provided to the Class.

There is no guarantee that Plaintiffs will be able to recover any money from the City's Insurance. The insurance declaratory action is currently being litigated in the United States District Court for the Western District of Michigan: *City of Benton Harbor v. The Travelers Indemnity Company of Connecticut et al.*, No. 1:25-cv-00861-HYJ-PJG (W.D. Mich.).

11. When will the insurance action be decided?

It is not known when a resolution will be reached in the City's Insurance action. The City filed the insurance action on June 10, 2025, and it is still in its early stages. At the earliest, Class Counsel estimates that the insurance action would be decided at the beginning of 2027, notwithstanding any appeals.

12. Are there any other benefits to the settlement?

Yes. The settlement requires that for five years, the City of Benton Harbor will do the following:

1. Test for lead, E. coli, and other contaminants in the City's water every six months;
 - a. This testing will be overseen by an Independent Monitor, appointed from existing City consultants or contracted firms;
 - b. The Independent Monitor will publish a water test report every six months;
2. Vigilantly enforce lead levels in the City's water;
 - a. The City agrees to abide by current EPA regulatory requirements that 10 parts per billion of lead at 90th percentile triggers enforcement under the SDWA, even if federal regulations change to become less strict;
3. Test residents for lead;

- a. The City will facilitate and cooperate with other qualified and agreed-upon entities who may provide lead testing of residents, such as posting sign up forms or informational flyers in City Hall or on City's website;
- b. If there is a positive test of a City resident's blood lead levels, defined as any amount over the CDC's then-current recommended action level, City shall provide testing of the specific home's water;
4. Enhance community services for children impacted by lead exposure;
 - a. The City will facilitate and cooperate with other qualified and agreed-upon entities who may provide enhanced community services, such as posting sign up forms or informational flyers in City Hall or on City's website;
5. Endeavor to reduce residents' water rates;
 - a. While water rates are set at the cost of service, the City will (1) pursue all available grants to fund the water system/reduce costs of service, (2) publicize and provide assistance to residents to apply to Michigan's low cost water program; and (3) continue to offer payment plans to residents upon request before resorting to water service shut offs, and agree that such shut offs will not occur if the agreed-upon payment plan is maintained;
6. Cooperate in other related litigation;
 - a. City Defendants will fully cooperate with Plaintiffs in litigation to collect on the Consent Judgment, in coverage litigation against Travelers Insurance Company, and any other litigation in the pursuit of the Assigned Claims against City's Insurance.

To view the full benefits of the Class Action Settlement Agreement and Release, visit www.BentonHarborWaterSettlement.com.

13. What am I giving up?

In exchange for the opportunity to pursue money from the City's Insurers, you and all other Class Members are giving up your right to sue the City Defendants for any role they may have had in contributing to the existence of lead levels above state and federal limits. If the settlement is approved and becomes final, it will legally bind you. You will not be able to bring a lawsuit against City Defendants for any of the legal claims released by the Covenant Not to Execute, and Assignment of Rights and Claims Agreement.

The specific rights you are giving up are called the settled Claim (see Question 14, below).

14. What is the settled Claim?

A settled Claim means a claim that you are giving up—releasing—in exchange for getting the benefits from the settlement.

The settled Claim means any claim that Plaintiffs or members of the Settlement Class have or may have against the Defendants, which arises out of the allegations in the Complaint in this Action.

The Lawyers Representing You

15. Who represents the Class in this case?

In a class action, the court appoints lawyers to work on the case and represent the interests of all the Class Members. In this case, the Court appointed the following Class Counsel to represent the Class:

Wilson Dunlavey Mark Chalos Annika K. Martin LIEFF CABRASER HEIMANN & BERNSTEIN, LLP 222 2nd Ave South, Suite 1640 Nashville, TN 37201 250 Hudson Street, 8th Floor New York, NY 10013	Alice Jennings Carl Edwards EDWARDS & JENNINGS P.C. 3061 West Grand Blvd., Suite 435 Detroit, MI 48214	Stewart Talley KERSHAW TALLEY BARLOW 401 Watt Avenue, Suite 1 Sacramento, CA 95864
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You may contact Class Counsel to answer any questions about the settlement by calling (800) 309-7473 ext. 5359, or by emailing BentonHarborWaterSettlement@lchb.com.

DO NOT CONTACT THE COURT WITH ANY QUESTIONS ABOUT THE SETTLEMENT.

16. Should I get my own lawyer?

You do not need to hire your own lawyer. Class Counsel is working on behalf of the Class. However, if you want to be represented by your own lawyer, you may hire one at your own expense and cost. You may also appear for yourself without a lawyer.

17. How will the lawyers be paid?

At this time, the lawyers will not recover any of their fees or costs. If Class Counsel is able to win money from the City's Insurers via the declaratory action, Plaintiffs will request an award of attorneys' fees for Plaintiffs' Counsel of up to 33% of the amount won, and for reimbursement of Class Counsel's costs and other expenses, to be paid from the amount won. Plaintiffs will post the motion for attorneys' fees and costs on www.BentonHarborWaterSettlement.com. All amounts awarded shall be determined by the Court.

Objecting to the Settlement

18. How do I tell the Court that I do not like the settlement?

You can notify the Court that you don't like the proposed settlement by filing an objection. If you disagree with any part of the settlement, you can ask the Court to deny approval by filing an objection. You cannot ask the Court to order a different settlement; the Court can only approve or reject this proposed settlement. If the Court denies approval of the settlement, Class Members will not receive the settlement relief and there will be no opportunity for Class Members pursue the money from the City's insurers. If that is what you want to happen, you should object.

Any objection to the proposed settlement must be in writing. You must give reasons why you think the Court should not approve it and disclose who your objection applies to. The Court will consider your views. You may, but don't need to, hire your own lawyer to help you.

To object, you must send a letter to the Court that:

- (1) is postmarked by May 6, 2026;
- (2) includes the case name and number (*Daretha Braziel, et al. v. City of Benton Harbor et al, et al.*, No. 1:21-cv-00960-HYJ-PJG);
- (3) includes your full name, current address and telephone number, and email address (if you have one);
- (4) states that you believe yourself to be a member of the Class;
- (5) identifies the dates that you have resided in Benton Harbor;
- (6) states whether the objection applies only to you, to a subset of the Class, or to the entire Class;
- (7) includes the specific grounds for your objection, and all documents or writings that you want the Court to consider;
- (8) includes the name and contact information of any and all attorneys representing, advising, or in any way assisting you in connection with the preparation or submission of the objection, or who may profit from the objection;
- (9) says whether either you or your lawyer intend to appear at the final approval hearing; and
- (10) is signed by you personally with a wet signature.

The objection must be filed with the Court or postmarked on or before May 6, 2026. You may submit the objection to the Court either by filing it electronically or in person at any location of the United States District Court for the Western District of Michigan, or by mailing it to Clerk of Court, United States District Court for the Western District of Michigan, 128 Federal Building, 315 W. Allegan St., Lansing, MI 48933.

The Final Approval Hearing

19. When and where will the Court decide whether to approve the settlement?

The Court will hold a Final Approval Hearing to decide whether to approve the settlement. The hearing is currently scheduled to occur on June 17, 2026 at 10:30 E.S.T. at the United States District Court for the Western District of Michigan, 128 Federal Building, 315 W. Allegan St., Lansing, MI 48933.

Because the settlement of a class action decides the rights of all members of the Class, the Court must give final approval to the settlement before it can take effect. At the Final Approval Hearing, the Court may, at its discretion, listen to Class Members who have asked to speak at the hearing.

The date and time of the Final Approval Hearing is subject to change without further notice to the Settlement Class, so please check www.BentonHarborWaterSettlement.com or the Court's PACER site for updates.

20. Do I have to come to the Final Approval Hearing?

No. You don't have to attend, but you may at your own expense. You may also ask the Court for permission to speak and express your opinion about the Settlement. If the Court does not approve the settlement or the parties decide to end it, it will be void and the lawsuit will continue.

Getting More Information

21. Are more details about the settlement available?

Yes. The information in this Settlement Notice is only a summary of the Settlement.

You can get more detailed information, including links to a copy of the Class Action Complaint, the notice, motion for preliminary settlement approval, preliminary approval order, motion for final settlement approval (when filed), motion for attorneys' fees and costs (when filed), the Settlement Agreement, and other important case documents at www.BentonHarborWaterSettlement.com.

If you have questions regarding the settlement you can contact Class Counsel at (800) 309-7473 ext. 5359 or BentonHarborWaterSettlement@lchb.com. **DO NOT CALL THE COURT.**

To learn more information about the settlement you can visit the settlement website at www.BentonHarborWaterSettlement.com or contact any of the lawyers listed in response to Question 15.

You can access the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov/>, or by visiting the office of the Clerk of the Court for the United States District Court for the Western District of Michigan, Lansing Courthouse, from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding court holidays.

You may also seek the advice and counsel of your own attorney at your own expense, if you desire.