

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

LISA KRAGNES, et al,

Plaintiff/Petitioner,

vs.

CITY OF DES MOINES, IOWA,

Defendants/Respondent.

Case No. CE 49273

RULING ON DEFENDANTS
MOTION TO DECERTIFY CLASS

FILED
POLK COUNTY, I.A.
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Defendant's Motion to Decertify Class came on for hearing before the court on June 30, 2008. Plaintiff was represented by attorneys Brad A. Schroeder and Bruce H. Stoltze. The City of Des Moines was represented by Deputy City Attorney Mark Godwin. After reviewing the file and listening to the arguments of counsel the court makes the following findings and ruling.

FINDINGS

1. On November 5, 2005, Plaintiff's counsel filed a statement with the court pursuant to Iowa Rule of Civil Procedure 1.276 in seeking certification of a class action. The statement appropriately set out the names of the attorneys working on the case and their respective interests and responsibilities with respect to both fees and expenses.
2. On January 12, 2006, Judge Huppert ruled on the motion for certification following a hearing on that issue held on November 22, 2005. He denied certification on grounds that plaintiff had not demonstrated that she had adequate financial resources to assume the costs of litigation.
3. Plaintiff's filed a motion pursuant to Iowa Rules of Civil Procedure 1.276 to expand findings and reconsider the ruling on the motion for class certification. Following a hearing on January 13, 2006 Judge Huppert entitled his ruling on June 26, 2006 approving the amended fee arrangement between plaintiff and her counsel pursuant to

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R.Civ.P. 1.276(2) allowing counsel to advance costs and expenses for litigation and grant the motion for class certification.

4. On May 30, 2008, Deputy City Attorney Mark Godwin received a letter from attorney Paul Drey with Brick Gentry Law Firm notifying him that Steven Brick stood by his commitment to advance costs of litigation in accordance with the parties prior agreement.
5. Prior to this hearing held on June 30, 2008, the plaintiff's attorneys periodically have attempted to assess the expenses required in the processing of this case. Plaintiff's attorneys believe their financial resources have been more than adequate to handle the expenses
6. As a result of the most recent motion to decertify the class filed on behalf of the defendants the plaintiff's attorneys have revisited and estimated the expenses in processing this case. Plaintiff's counsel have provided the court financial documents in support of their estimation of the expenses that will be involved in this case and financial status of the attorneys showing that each attorney has funds available for the processing of this case.
7. A review of the aforementioned documents in camera leads this court to the conclusion that defendant's assertion that plaintiff's attorneys lack the financial ability to process this case is without merit. The documents provided demonstrate to this court that plaintiff's counsel does have the financial ability to proceed with this action.

