

IN THE IOWA DISTRICT COURT  
FOR POLK COUNTY

LISA KRAGNES, et. al.,

Plaintiff,

vs.

CITY OF DES MOINES, IOWA,

Defendant.

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) Law No. CE 49273  
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OBJECTION TO PROPOSED  
NOTICE TO CLASS MEMBERS

FILED  
POLK COUNTY IA  
00 JUL 10 PM 1:46  
IOWA DISTRICT COURT

COMES NOW the Defendant, the City of Des Moines, Iowa, and objects to the proposed notice to class members as follows:

1. The notice does not provide for an opt-out provision. While it is true that the findings of the Court are such that the case falls under a Rule of Civil Procedure that does not allow an opt out provision, certainly Judge Huppert anticipated that an opt-out provision would be allowed, as he explicitly mentioned an opt-out provision in his first order denying class certification and in his second order granting class certification.

2. Further, the denial of an opt-out provision denies constitutional due process and associational rights to members of the class who are forced to litigate against the City even though they may be elected officials of the City, the attorney for the City, employees of the City, or citizens who simply do not want to get a refund check for X dollars and then get a tax bill for X+ dollars.

3. The City objects to the scanty financial information provided in the notice. Additionally, the City is preparing information for the Court which will include a more comprehensive and accurate picture of the financial consequences of this litigation, which is to say the class members have a right to know that, if they own a home or business, then "winning" this litigation will likely cost them money.

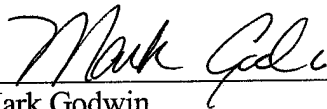
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STOLTZE & UPDEGRAFF, P.C.

4. The City also objects to the notification of the class because none of the assumptions made by the Plaintiff's attorneys regarding cost of notice and cost of administration are apparent anywhere in the notice.

5. The City further objects to the proposed class notification because Plaintiff has provided no information on how absent class members will be contacted. By absent class members the City means people who were gas and electric franchise customers at some point during the period between when the class was certified and now, but have moved.

WHEREFORE, the City objects the proposed class notice, requests the Court to set a hearing on the same and prays the Court not approve the same and for such other relief as is proper.

  
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Mark Godwin  
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ATTORNEY FOR DEFENDANT  
CITY OF DES MOINES

Original Filed.

Copies to:

Hon. Joel D. Novak  
Judge, 5th Judicial District

Mr. Brad Schroeder  
Hartung & Schroeder LLP  
Equitable Building, Suite 100  
608 Locust Street  
Des Moines, IA 50309  
ATTORNEY FOR PLAINTIFF

**PROOF OF SERVICE**  
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on 7-10-08  
By:  U.S. Mail       FAX  
 Hand Delivered       Overnight Courier  
 Federal Express       Other:  
Signature Diane Roscoe

Bruce H. Stoltze  
Stoltze & Updegraff, P.C.  
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