

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

<p>LISA KRAGNES, et al., Plaintiff, vs. CITY OF DES MOINES, IOWA, Defendant.</p>	<p>Equity No. 49273 PLAINTIFF'S RESISTANCE AS TO DEFENDANT'S SECOND MOTION TO DECERTIFY CLASS AND RESISTANCE TO MOTION TO VIEW FINANCIAL DATA</p>
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POLK COUNTY, IA
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CLERK OF DISTRICT COURT

COMES NOW the Plaintiff, Lisa Kragnes, on behalf of herself and the class members, and states as follows in Resistance to Defendant's Motion to Decertify Class and in Resistance to Defendant's Motion to View Financial Data:

1. On July 7, 2008, this Court denied the Defendant's First Motion to Decertify the Class. As the Defendant had orally requested to view the submitted financial data, the Plaintiff assumed that motion to view financial data stood as denied.
2. Simultaneously with the Court's denial of the Defendant's First Motion to Decertify Class, the Defendant filed a written Motion to View Financial Data.
3. The Defendant has now also filed a Second Motion to Decertify the Class and combined it with another Motion to View Financial Data. However, as will be noted below, the facts cited by the Defendant support retaining of the class, rather than support decertification and do not support a viewing of the financial data submitted.
4. As a result of the Defendant attaching an email to its Second Motion to Decertify the Class, the Court now has an email from MidAmerican which supports the conclusion that MidAmerican had previously mistakenly underestimated the number of class members to be notified in this case.

5. While it is true that MidAmerican's estimate has apparently proven inaccurate, the Plaintiff's attorneys had not relied upon that estimate for costs in this case. Indeed, as the Court was previously advised, the Plaintiff's attorneys have repeatedly revisited the question of costs. In doing so, the Plaintiff's attorneys have estimated a low and high range of likely costs. That range was submitted to the Court for in camera inspection, with the desire to attempt to keep some confidentiality for the appropriate processing of this case for the Plaintiff class.

6. The information provided by the Defendant and as contained in the email with MidAmerican discusses a current cost estimate for class notice through MidAmerican to 94,000 current premises of \$32,420. As the Court will note, this amount is actually substantially below even the low end of the estimate made by the Plaintiff's attorneys for the question of the cost of class notice. As the Court will further note, the Plaintiff's attorneys have actually estimated a substantially higher range for the cost of class notice which is far in excess of this cost of class notice submitted by the Defendant. As the Court will finally note, the Plaintiff's attorneys have also even made provision for financing in an even greater magnitude from that high end of the cost of notice.

7. Accordingly, not only does this latest information of the Defendant not show a reason to Decertify the Class, it actually supports not decertifying the class as it again demonstrates that Plaintiff's attorneys have appropriately demonstrated the ability to estimate, plan for and finance the processing of the litigation for the interests of the class.

8. Further, the Plaintiff continues to request the Court to refuse to order disclosure to the Defendant of the personal financial data of the Plaintiff's attorneys. The Plaintiff asserts that the Court, who is charged with the responsibility of managing the class

action, is capable of reviewing that data and evaluating the issues involved. The financial data, being of an extremely personal nature, is not something that should be easily disclosed beyond in camera inspection. Further, as the Court can tell from the data submitted, more than enough cash and other cash resources exist for the continued processing of this case for the class. No substantial purpose will be advanced in the further disclosure of that financial information.

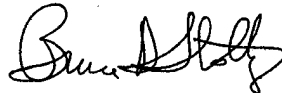
9. The Plaintiff continues to note that Defendant has put forth no evidence of its estimate of costs for the processing of this class action. Rather, Defendant has merely continued to make unsubstantiated assertions. The Defendant should be required to set out for this Court and the Plaintiff and class members the specific estimates it has made as to likely costs for the Plaintiff's processing of this case, the factual basis therefore and the factual basis upon which it makes assertions of an alleged inability of Plaintiff's counsel to fund this litigation. Indeed, it is difficult for the Plaintiff to understand how the Defendant can actually assert that a lack of financial resources exists when it has not even advanced its estimate as to the likely costs. One can surmise that Defendant merely wants to obtain the financial information and then attempt to, post hoc, address the costs. There seems to be something inequitable about that Defendant merely making assertions about costs and lack of financial ability when the Defendant is not even willing to set out its own estimate of the likely costs. Plaintiff respectfully resists this attempt by the Defendant.

WHEREFORE the Plaintiff respectfully resists the Defendant's Second Motion to Decertify Class and requests the Court overrule the Motion. Plaintiff further resists the Defendant's Motions to View Financial data and requests the Court overrule such motions.

Respectfully submitted,



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ORIGINAL FILED.

CERTIFICATE OF SERVICE:

A COPY of the foregoing has been mailed this 4th day of August, 2008, to the following:

<p>Mark Godwin Deputy City Attorney City Hall 400 East First Street Des Moines, IA 50309 ATTORNEY FOR DEFENDANT</p>	<p>Judge Joel D. Novak Polk County Courthouse 500 Mulberry Des Moines, Iowa 50309</p>
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By: _____