

IN THE IOWA DISTRICT COURT
FOR POLK COUNTY

LISA KRAGNES, et. al.,

Plaintiff,

vs.

CITY OF DES MOINES, IOWA,

Defendant.

)
) Law No. CE 49273

)
) AFFIDAVIT OF
) ROBERT L. MAHAFFEY
) REGARDING CLASS
) OPT-OUT PROVISION
)

2019 AUG 19 PM 2:23
POLK DISTRICT COURT

STATE OF IOWA)
) ss:
COUNTY OF POLK)

I, Robert L. Mahaffey, after first being duly sworn upon oath, do depose and state as follows:

1. At all times material hereto I have been an elected official for the City of Des Moines serving in the capacity of Council Member.
2. This Affidavit is made of my personal knowledge.
3. I have been told that there is no opt-out provision in this lawsuit.
4. As an electricity and natural gas user in the City of Des Moines, I would be a member of the class.
5. However, as an elected official for the City of Des Moines, I do not wish to be a member of the class.
6. As an elected official I have taken an oath of office, attached as Exhibit A, and I believe being forced to be a member of that class would cause me to violate that oath of office.
7. In addition, I believe being made a member of the class against my will violates my substantive and/or procedural due process rights.

8. In addition, I believe that being forced to be a member of the class against my will violates my freedom of association rights under the Federal and State Constitutions.

9. My personal belief is that this lawsuit is a sham and for the benefit primarily for the Plaintiff's attorneys.

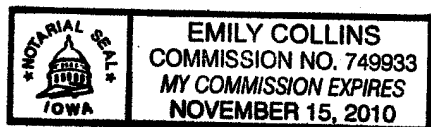
10. My belief as an elected official for the City and as a homeowner in Des Moines is that the financial consequences of this litigation will be unfavorable to me and to other homeowners.

11. The Court should grant and opt out provision to the class because of the inherent conflicts among class members in this case.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Robert L. Mahaffey
Robert L. Mahaffey

Subscribed and sworn to before me this 14th day of August, 2008.



Emily Collins
Notary Public

Original filed.

Copies to:

Honorable Joel D. Novak
Judge, Fifth Judicial District

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

Bruce H. Stoltze
Stoltze & Updegraff, P.C.
P.O. Box 93295
300 Walnut, Ste. 260
Des Moines, IA 50393
ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above-entitled cause by transmittal to each of the attorneys of record at their respective addresses disclosed on the pleadings of record on the 19th day of August 2008.

By: U.S. Mail Fax
 Hand-Delivered

Signature

Lisa M. Mckey

EXHIBIT A



OATH OF OFFICE
DES MOINES CITY COUNCIL



All-America City
1949 1976 1981 2003

I ROBERT MAHAFFEY do solemnly swear, that I will support the Constitution of the United States, and the Constitution of the State of Iowa, and that I will faithfully and impartially, to the best of my ability, discharge all the duties of the office of

COUNCIL MEMBER - WARD II

in the City of Des Moines, Iowa, as now or hereafter required by law.

Robert L. Mahaffey
SIGNATURE

Subscribed and sworn to me by the said above,
signed on this 31st day of December,
2001

Diane Rauh
Notary Public in and for
Polk County, Iowa

