

SPOKANE COUNTY COURT HOUSE

**Superior Court of the State of Washington
for the County of Spokane**

Department No. 4

JULIE M. MCKAY

Judge

**Lisa Gurkowski
Judicial Assistant**

**Mark Sanchez
Court Reporter**

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December 4, 2018

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**Re: DURGAN, JOHN E ETAL VS CITY OF SPOKANE
No. 2017-02-02507-5**

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DEC 04 2018**

Dear Counsel:

SPOKANE COUNTY CLERK

The Plaintiffs' Motion to Approve Class Notice Plan was argued August 17, 2018. Supplemental briefing was required based upon arguments made. Defendant replied August 31, 2018 with a sur-reply and a sur-response being filed in September 2018. All of the documentation provided by Plaintiffs and Defendant have been reviewed, including Plaintiffs' Motion to Strike. Based upon my review of the documents, file, caselaw, and having original arguments in mind, I am approving the class notice plan in the following manner.

CR 23(c)(2) requires the Court to "direct to the members of the class the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort." Plaintiffs are responsible for the cost of moving their case forward, however, that does not mean that Defendant cannot be made to perform one of the tasks necessary to send notice where the Defendant can do so with greater efficiency or less expense than the Plaintiff.

Notice to the class under the circumstances of this action shall be by U.S. Mail to all current City of Spokane water utility customers. Notice will be made by way of Appendix B in the the next regularly-scheduled water utility billing, not just the outside city water customers. It has

been some time since this motion was originally argued so the court is unaware of time constraints and insert issues that may currently exist. However, notice should be given, to the extent possible, in the next water utility bill being mailed out by the City of Spokane. In addition, all current water utility customers billed electronically shall be notified by attaching notice in the form of Appendix A as a PDF attachment to the next regularly-scheduled utility e-mailing.

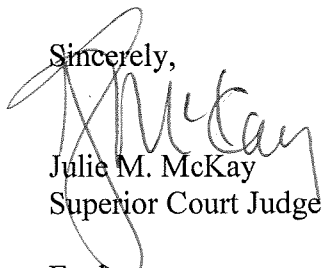
Plaintiffs shall provide notice to unknown class members by publication in any of the county "official publication" newspapers serving Spokane County. Class counsel is authorized to provide notice to unknown class members by publication of notice in the form of Appendix A in the Spokesman-Review and/or the Cheney Free Press, the Pacific Northwest Inlander, the Valley News Herald, or other "official publication" serving Spokane County, to be accomplished at Plaintiffs' expense.

I will not require the City of Spokane to maintain a City web-page dedicated to having the Notice of Class Action on it. However, the City will be required to have a link to the Dunn and Black class action web site for informational purposes on the City of Spokane website.

The cost of printing the Notice to go in the water bills shall be at the Plaintiffs expense. Any U.S. postage expenses over and above the city's standard postage expense shall also be at Plaintiffs' expense. Any other costs incurred by the Defendant to comply with the order attached hereto shall be covered by the Defendant.

Enclosed please find a conformed copy of the Court's Order Granting Plaintiffs' Motion to Approve Class Notice Plan with Plaintiff's proposed Appendix A and Appendix B attached for class notifications.

Sincerely,



Julie M. McKay
Superior Court Judge

Enclosure

cc: Court File