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Court Allows Class Action Lawsuit Against the City of Cleveland’s Discriminatory Water Liens and Shutoffs to Move Forward

On September 30, a federal district court in Ohio issued two rulings in favor of Cleveland residents challenging the City’s discriminatory water liens and shutoff practices. First, the Court denied the City’s second attempt to prevent plaintiffs from proceeding with the suit by rejecting its motion for summary judgment. The Court then certified three classes of Cleveland Water customers who allege that they have been harmed by the City’s water lien policy and notice and billing practices.

In 2019, the Legal Defense Fund (LDF), along with the Covington & Burling law firm and Cleveland counsel (now Avery Friedman), filed a class action lawsuit in the U.S. District Court for the Northern District of Ohio against the City on behalf of residents affected by what they claim to be discriminatory and unfair collection practices for unpaid water debt.

The lawsuit, which brings claims under the Fair Housing Act and the Ohio Civil Rights Act, challenges Cleveland Water’s water lien policy for allegedly placing Black residents at increased risk of losing their homes. According to the lawsuit, Cleveland Water converted thousands of unpaid water bills to liens on customers’ properties, and the water department placed materially more water liens in majority-Black Census blocks than in majority-white blocks in Cuyahoga County, even when comparing neighborhoods with the same median income.

“Everyone deserves to have clean and affordable water,” said Alexandra Thompson, LDF Senior Counsel. “For years, as water rates have undergone dramatic increases in Cleveland, residents have been subject to exorbitant and erroneous billing, sudden water shutoffs, and liens on their property as a result of unpaid water bills, all without redress. Black residents have been disproportionately subject to these liens, which place them at a higher risk of foreclosure and eviction from their homes. We want to ensure their voices are heard as we challenge the policies that underlie these discriminatory practices.”

Plaintiffs also allege that the city water department is violating its customers’ due process rights as guaranteed under the Due Process and Equal Protection Clauses of the 14th Amendment, as well as the Ohio Constitution. Specifically, the plaintiffs allege that Cleveland Water overbills many of its customers, and when residents are unable to pay their bills the water department shuts off their service, often with no notice. The department also allegedly routinely fails to inform customers of their right to contest their water bills or pending shutoffs at a hearing before the city’s Water Review Board, and those who do request a hearing are often denied the opportunity to receive meaningful relief. These issues and more were outlined in LDF’s 2019 report, *Water/Color: A Study of Race and the Water Affordability Crisis in America’s Cities*.

The City of Cleveland has twice asked the Court reject plaintiffs' lawsuit without a trial, but the Court earlier denied a motion to dismiss and now has denied the City's motion for summary judgment, allowing the case to move forward.

“The court’s order allowing this class action lawsuit to proceed is another step forward in an ongoing process to secure justice for our clients and other Cleveland Water customers.” said Jason Bailey, LDF Assistant Counsel. “Those who have been harmed by Cleveland Water’s discriminatory and unconstitutional policies and practices will now have the opportunity to tell their stories and seek remedy for these harms. We applaud this development.”

The Court also granted plaintiffs’ motion for class certification — an important step that allows a court to consider the claims of a group of similarly situated persons with the same legal claims. The court specifically certified three classes: a class of all Black homeowners or residents in Cuyahoga County who have been obligated to pay debt secured by their property stemming from amounts originally owed to Cleveland Water; a class of all persons who had their water service disconnected by Cleveland Water and did not receive advance written notice of the shutoff or their right to request a hearing to dispute the impending disconnection; and a class of all persons who have been overbilled for water services by Cleveland Water and did not receive an opportunity to contest the bills through a hearing.

LDF was appointed to serve as class counsel, along with Mr. Friedman and Covington & Burling.

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