

STATE OF MICHIGAN
MACOMB COUNTY CIRCUIT COURT

JUDITH STAELGRAEVE, Personal
Representative of the Estate of Ralph Staelgraeve,
Individually and as representative of a class of
similarly-situated persons and entities,

Case No. 18-001775-CZ
Hon. Michael Servitto

Plaintiff,

v.

CHARTER TOWNSHIP OF SHELBY,
a municipal corporation,

Defendant.

Gregory D. Hanley (P51204)
Edward F. Kickham Jr. (P70332)
Kickham Hanley PLLC
32121 Woodward Avenue, Suite 300
Royal Oak, MI 48073
(248) 544-1500
Attorneys for Plaintiff and the Class

Rob Huth (P42531)
Raechel M. Badalamenti (P64361)
Kirk, Huth, Lange & Badalamenti, PLC
19500 Hall Road, Suite 100
Clinton Township, MI 48038
(586) 412-4900

Marc N. Drasnin (P36682)
Joelson Rosenberg et al
30665 Northwestern Hwy Suite 200
Farmington Hills, MI 48334
(248) 855-3088
Co-counsel for Plaintiff and the Class

STIPULATED ORDER AUTHORIZING CLASS NOTICE

At a session of said Court held in the
City of Mt. Clemens, County of Macomb,
State of Michigan on 08/15/2019

PRESENT: HON. MICHAEL E SERVITTO
Circuit Court Judge

This matter having come before the Court upon the stipulation of the parties for entry of an order authorizing the parties to provide notice of the pendency of this action to the members of the class, and the Court being otherwise advised in these premises:

WHEREAS, on January 18, 2019, the Court entered an order certifying a class consisting of

all persons and entities who paid the Charter Township of Shelby (the "Township") for water and/or sanitary sewer service during the relevant class periods or which pay the Township for water and/or sewage disposal service during the pendency of this action. *See* Exhibit 1, hereto.

WHEREAS, MCR 3.501(C) states that "[n]otice shall be given as provided in this subrule to persons who are included in a class action by certification ..." and requires that the Court "determine how, when, by whom, and to whom the notice shall be given; the content of the notice; and to whom the response to the notice is to be sent."

WHEREAS, the parties have agreed that the form of the Notice attached to this Order as Exhibit 2 complies with the requirements of MCR 3.501;

WHEREAS, the Township has maintained records in electronic format sufficient to provide the service addresses of the class members who are current water and sewer customers, and shall provide those records to Class Counsel, in electronic format, within 14 days of the entry of this Order so that Class Counsel can provide notice to the class members via first class U.S. mail; and

WHEREAS, the parties have stipulated to further provide for the publishing of the summary Notice attached as Exhibit 3 in the Macomb Dailey newspaper on two occasions prior to September 1, 2019.

Pursuant to the parties' stipulation, and the Court being fully advised in the premises:

IT IS ORDERED that, within 14 days of the entry of this Order, the Township shall provide to Class Counsel records in electronic format sufficient to provide the service addresses of the class members who are current water and sewer customers so that Class Counsel can provide notice to the class members via first class U.S. mail.

IT IS FURTHER ORDERED that, within 21 days of Class Counsel's receipt of the records identified above, Class Counsel shall disseminate the Notice attached as Exhibit 2 to this Order to the members of the class identified as current water and sewer customers in the Township's records

via U.S. mail.

IT IS FURTHER ORDERED THAT Class Counsel shall arrange for the publication of the Notice attached as Exhibit 3 to this Order in the Macomb Daily newspaper on two occasions prior to October 1, 2019.

IT IS FURTHER ORDERED THAT any class member who does not serve a notice of intent to be excluded from the class on or before November 15, 2019 will be bound by the judgment entered in this case.



STIPULATED TO AND AGREED:

KICKHAM HANLEY PLLC

By: /s/ Gregory D. Hanley
Gregory D. Hanley (P51204)
Edward F. Kickham Jr. (P70332)
32121 Woodward Avenue, Suite 300
Royal Oak, Michigan 48073
(248) 544-1500
Attorneys for Plaintiff

KH158238

Circuit Court Judge

/S/ MICHAEL SERVITTO
CIRCUIT COURT JUDGE, P66434

08/15/2019

**KIRK, HUTH, LANGE & BADALAMENTI,
PLC**

By: /s/ Robert Huth
Robert Huth (P42531)
Kirk, Huth, Lange & Badalamenti, PLC
19500 Hall Road, Suite 100
Clinton Township, MI 48038
(586) 412-4900
Attorneys for Defendant

EXHIBIT - 1

STATE OF MICHIGAN
MACOMB COUNTY CIRCUIT COURT

RALPH STAELGRAEVE,
individually and as representative of a class of
similarly-situated persons and entities,

Case No. 18-001775-CZ
Hon. Michael Servitto

Plaintiff,

v.

CHARTER TOWNSHIP OF SHELBY,
a municipal corporation,

Defendant.

Gregory D. Hanley (P51204)
Edward F. Kickham Jr. (P70332)
Kickham Hanley PLLC
32121 Woodward Avenue, Suite 300
Royal Oak, MI 48073
(248) 544-1500
Attorneys for Plaintiff and the Class

Robert Huth (P42531)
Kirk, Huth, Lange & Badalamenti, PLC
19500 Hall Road, Suite 100
Clinton Township, MI 48038
(586) 412-4900
Attorneys for Defendant

Marc N. Drasnin (P36682)
Joelson Rosenberg et al
30665 Northwestern Hwy Ste 200
Farmington Hills, MI 48334
(248) 855-3088
Co-counsel for Plaintiff and the Class

**STIPULATED ORDER GRANTING PLAINTIFF'S
UNOPPOSED MOTION FOR CLASS CERTIFICATION**

At a session of said Court held in the
City of Mt. Clemens, County of Macomb,
State of Michigan on 01/18/19

PRESENT: HON. _____
Circuit Court Judge

The Court having reviewed Plaintiff's unopposed motion for class certification, and the brief in support, and being otherwise informed of the premises, **THE COURT FINDS:**

a. that the prerequisites for class certification under MCR 3.501 are satisfied in this case for the reasons set forth in Plaintiffs' motion for class certification and brief in support and certifies the Class under MCR 3.501.

b. pursuant to MCR 3.501, that the Class is defined as all persons and entities who/which have paid the Charter Township of Shelby (the "Township") for water and/or sanitary sewer service during the relevant class periods. This is appropriate because (a) the class consisting of thousands of water and sewer customers in the Township is so numerous that joinder of all members is impracticable; (b) there are questions of law or fact common to the members of this Class that predominate over questions affecting only individual members, including whether the Township has violated the Headlee Amendment and whether the Township's water and sewer rates are reasonable; (c) the claims or defenses of the representative party is typical of the claims or defenses of the Class because the representative's claims arise from the same events or practices or course of conduct that gives rise to the claims of the other class members and are based on the same legal theories; (d) the representative party will fairly and adequately assert and protect the interests of the Class because there are no conflicts of interest with the Class, and the Class is represented by experienced, competent counsel; and (e) the maintenance of this action as a class action will be superior to other available methods of adjudication in promoting the convenient administration of justice.

IT IS HEREBY ORDERED:

A. That this action is certified as a proper class action with Plaintiff certified as Class Representative and Kickham Hanley PLLC and Joelson Rosenberg et al designated as Class Counsel.

B. With respect to Count I of the Complaint, the Class is defined to include all persons and entities who/which have paid the Township for water and/or sewage disposal service at any time since May 4, 2017 or which pay the Township for water and/or sewage disposal service during the pendency of this action.

C. With respect to Counts II through VII, the Class is defined to include all persons and entities who/which have paid the Township for water and/or sewage disposal service at any time since January 1, 2013 or which pay the Township the for water and/or sewage disposal service during the pendency of this action.

D. The Court reserves the issue of the timing, content, manner and method of the notice to Class members, which will be subject of future orders of the Court.

E. With the exception of the class certification issues that are the subject of this Order, the Court makes no finding, expressly or impliedly, regarding the factual or legal merit of any of the Plaintiff and Class allegations and claims or of the Township's alleged defenses thereto.

SO ORDERED.


01/10/2018
CIRCUIT COURT JUDGE

STIPULATED TO AND AGREED:

KICKHAM HANLEY PLLC

By: /s/ Gregory D. Hanley
Gregory D. Hanley (P51204)
Edward F. Kickham Jr. (P70332)
32121 Woodward Avenue, Suite 300
Royal Oak, Michigan 48073
(248) 544-1500
Attorneys for Plaintiff

**KIRK, HUTH, LANGE & BADALAMENTI,
PLC**

By: /s/ Robert Huth
Robert Huth (P42531)
Kirk, Huth, Lange & Badalamenti, PLC
19500 Hall Road, Suite 100
Clinton Township, MI 48038
(586) 412-4900
Attorneys for Defendant

EXHIBIT - 2

LEGAL NOTICE

NOTICE OF CLASS ACTION

TO: All persons and entities which have paid the Charter Township of Shelby (the “Township”) for Water and/or Sewer Service after May 4, 2012.

You are hereby notified that an action has been commenced in the Macomb County Circuit Court titled *Staelgraeve v. Charter Township of Shelby*, Case No. 2018-001775-CZ, presiding Judge Michael Servitto, challenging the retail water rates (the “Water Rates”) and the retail sewage disposal rates (the “Sewer Rates”) (collectively the “Rates”) imposed by the Township on citizens who draw water from the Township’s water supply system and who use the Township’s sewer system (the “Lawsuit”). Plaintiff has brought these claims on behalf of themselves and a class of all others similarly situated.

Plaintiff is a water and sewer customer of the Township, and seeks to act as a class representative for all similarly situated persons and entities who/which have paid the Rates imposed by the Township. Plaintiff, on behalf of a class of similarly situated persons and entities, contends that the Township has systematically garnered millions of dollars of revenues from its water and sewer customers allegedly in excess of its actual costs of providing water and sewer services by including in the Rates items of expenses it characterizes as “Depreciation” (the “Depreciation Charges”). Specifically, the Depreciation Charges consist of: (i) the cost of servicing the interest on long-term debt related to water and sewer infrastructure improvements; and (ii) the purported amount of depreciation expense associated with the Township’s water and sewer system infrastructure components. Depreciation expenses are non-cash expenses (*i.e.*, the Township does not pay money to “cover” these expenses) and are a measure of the incremental loss in value of water and sewer system infrastructure over the useful life of that infrastructure. The Township depreciates its water and sewer system assets over 50 years. Plaintiff asserts that the Township’s inclusion of the Depreciation Expenses in its Rates: (a) violates the Headlee Amendment of the Michigan Constitution; (b) renders the Rates unreasonable under Michigan common law principles; (c) violates MCL 123.141; and (d) violates Township Ordinance, § 58-151.

Plaintiff seeks a judgment from the Court against the Township which would order and direct the Township to disgorge and refund all water and sewer overcharges to which Plaintiff and the class are entitled and enjoin the Township from overcharging in the future.

The Township maintains that the inclusion of the Depreciation Charges is proper and not unlawful. Thus, the Township denies the Plaintiff's allegations and claims, denies that it has overcharged its customers or any residents, denies that its Rates, in whole or in any part, are unreasonable, and denies that the Plaintiff and those similarly situated have been harmed. As such, the Township contends that it should prevail in the Lawsuit. **The Court has made no rulings concerning the merits of the Lawsuit at this time.**

On January 18, 2019, the Court entered an order certifying the Lawsuit as a class action. You are receiving this Notice because the Township's records indicate that you paid the Township for water and sewer service at some time after May 4, 2012 and are therefore a member of the class.

No financial consequences will be suffered by class members if Plaintiff loses, except that all other class members will be barred from bringing an individual action against the Township alleging the claims contained in Plaintiff's complaint.

The Township has not filed a counterclaim against Plaintiff or the class.

If you have paid the Township for water and sewer service between May 4, 2012 and the present, then you are a member of the class.

If you are a member of the class, you will be bound by any judgment entered in this action, whether the judgment is favorable or unfavorable to the class.

Class members who wish to exclude themselves from the Lawsuit may write to Class Counsel, stating that they do not wish to participate in the Lawsuit and that they wish to retain their right to file a separate action against the Township. **This request for exclusion must be postmarked no later than November 15, 2019 and mailed to: Kickham Hanley PLLC, 32121 Woodward Avenue, Royal Oak, Michigan 48073.**

Whether to remain a member of this class or to request exclusion from this class action to attempt to pursue a separate lawsuit at your own expense without the assistance of the Plaintiff in this Lawsuit is a question you should ask your own attorney. Class counsel cannot and will not advise you on this issue.

You are notified that you have the right to intervene in this action as a named party. If you choose to intervene you may become liable for costs and will have similar rights and responsibilities as Plaintiff. Further, you may have counsel of your own choosing and class counsel will not be obligated to represent you.

For a more detailed statement of the matters involved in the Lawsuit, you are referred to papers on file in the Lawsuit which may be inspected during regular business hours at the Office of the Clerk of Circuit Court for Macomb County, Michigan. You also may review certain of the Lawsuit documents at www.kickhamhanley.com.

Should you have any questions with respect to this Notice you should raise them with your own attorney or direct them to counsel for the Class, **IN WRITING, NOT BY TELEPHONE**, identified as Attorneys for Plaintiff and the Class, below. **DO NOT CONTACT THE COURT OR CLERK OF THE COURT, OR THE ATTORNEYS FOR DEFENDANT.**

Attorneys for Plaintiff and the Class:

Gregory D. Hanley (P51204)
Edward F. Kickham Jr. (P70332)
KICKHAM HANLEY PLLC
32121 Woodward Avenue, Suite 300
Royal Oak, MI 48073
khtemp@kickhamhanley.com

KH158239

EXHIBIT - 3

LEGAL NOTICE

NOTICE OF CLASS ACTION

TO: All persons and entities who/which have paid the Charter Township of Shelby (the “Township”) for Water and/or Sewer Service after May 4, 2012.

You are hereby notified that an action has been commenced in Macomb County Circuit Court titled *Staelgraeve v. Charter Township of Shelby*, Case No. 2018-001775-CZ, presiding Judge Michael Servitto, challenging the retail water rates (the “Water Rates”) and the retail sewage disposal rates (the “Sewer Rates”) (collectively the “Rates”) imposed by the Township on citizens who draw water from the Township’s water supply system and who use the Township’s sewer system (the “Lawsuit”). Plaintiff has brought these claims on behalf of themselves and a class of all others similarly situated.

Plaintiff is a water and sewer customer of the Township, and seeks to act as a class representative for all similarly situated persons and entities that have paid the Rates imposed by the Township. Plaintiff, on behalf of a class of similarly situated persons and entities, contends that the Township has systematically garnered millions of dollars of revenues from its water and sewer customers allegedly in excess of its actual costs of providing water and sewer services by including in the Rates items of expenses it characterizes as “Depreciation” (the “Depreciation Charges”). Plaintiff asserts that the Township’s inclusion of the Depreciation Expenses in its Rates: (a) violates the Headlee Amendment of the Michigan Constitution; (b) renders the Rates unreasonable under Michigan common law principles; (c) violates MCL 123.141; and (d) violates Township Ordinance, § 58-151. Plaintiff seeks a judgment from the Court against the Township which would order and direct the Township to disgorge and refund all water and sewer overcharges to which Plaintiff and the class are entitled and enjoin the Township from overcharging in the future.

The Township maintains that the inclusion of the Depreciation Charges is proper and not unlawful. Thus, the Township denies the Plaintiff’s allegations and claims, denies that it has overcharged its customers or any residents, denies that its Rates, in whole or in any part, are unreasonable, and denies that the Plaintiff and those similarly situated have been harmed. As such, the Township contends that it should prevail in the Lawsuit. **The Court has made no rulings concerning the merits of the Lawsuit at this time.**

On January 18, 2019, the Court entered an order certifying the Lawsuit as a class action. No financial consequences will be suffered by class members if Plaintiff loses, except that all other class members will be

barred from bringing an individual action against the Township alleging the claims contained in Plaintiff's complaint.

If you have paid the Township for water and/or sewer service between May 4, 2012 and the present, then you are a member of the class. If you are a member of the class, you will be bound by any judgment entered in this action, whether the judgment is favorable or unfavorable to the class. Class members who wish to exclude themselves from the Lawsuit may write to Class Counsel, stating that they do not wish to participate in the Lawsuit and that they wish to retain their right to file a separate action against the Township. **This request for exclusion must be postmarked no later than November 15, 2019 and mailed to: Kickham Hanley PLLC, 32121 Woodward Avenue, Royal Oak, Michigan 48073.** Whether to remain a member of this class or to request exclusion from this class action to attempt to pursue a separate lawsuit at your own expense without the assistance of the Plaintiff in this Lawsuit is a question you should ask your own attorney. Class counsel cannot and will not advise you on this issue.

You are notified that you have the right to intervene in this action as a named party. If you choose to intervene you may become liable for costs and will have similar rights and responsibilities as Plaintiff. Further, you may have counsel of your own choosing and class counsel will not be obligated to represent you.

For a more detailed statement of the matters involved in the Lawsuit, you are referred to papers on file in the Lawsuit which may be inspected during regular business hours at the Office of the Clerk of Circuit Court for Macomb County, Michigan. You also may review certain of the Lawsuit documents at www.kickhamhanley.com. Should you have any questions with respect to this Notice you should raise them with your own attorney or direct them to counsel for the Class, **IN WRITING, NOT BY TELEPHONE**, identified as Attorneys for Plaintiff and the Class, below. **DO NOT CONTACT THE COURT OR CLERK OF THE COURT, OR THE ATTORNEYS FOR DEFENDANT.**

Attorneys for Plaintiff and the Class:

Gregory D. Hanley (P51204)
Jamie Warrow (P61521)
Edward F. Kickham Jr. (P70332)
KICKHAM HANLEY PLLC
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khtemp@kickhamhanley.com

Kim Plets

From: info@truefiling.com
Sent: Wednesday, August 14, 2019 12:29 PM
To: Kim Plets
Subject: Subject: MI Macomb 16th Circuit Court - Document In Progress - Case No. 2018-001775-CZ

The following filing in RALPH STAELGRAEVE ET AL. VS. CHARTER TOWNSHIP OF SHELBY, No. 2018-001775-CZ has been updated by the MI Macomb 16th Circuit Court:

Received filing 2af0580b-deaf-4a9e-8574-b9b2a11fdb08 at 12:28:31 PM on 8/14/2019.

- Filing Name: Stipulated Order Authorizing Class Notice
- Document Type: PROPOSED ORDERS
- Submitted: 8/14/2019 12:28 PM
- Filed By: Gregory Hanley (P51204)

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MI Macomb 16th Circuit Court

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Kim Plets

From: info@truefiling.com
Sent: Wednesday, August 14, 2019 12:35 PM
To: Kim Plets
Subject: Subject: MI Macomb 16th Circuit Court - Document In Progress - Case No. 2018-001775-CZ

The following filing in RALPH STAELGRAEVE ET AL. VS. CHARTER TOWNSHIP OF SHELBY, No. 2018-001775-CZ has been updated by the MI Macomb 16th Circuit Court:

ONBASE WORKFLOW CORE: Your submitted filing has been received by the Court and forwarded to Clerk's Office for review.

- Filing Name: Stipulated Order Authorizing Class Notice
- Document Type: PROPOSED ORDERS
- Submitted: 8/14/2019 12:28 PM
- Filed By: Gregory Hanley (P51204)

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MI Macomb 16th Circuit Court

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Subject: TrueFiling: Service Notification - MI Macomb 16th Circuit Court - Case No. 2018-001775-CZ

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• Document Type: PROPOSED ORDERS

Link: [Click to download document](#)

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The following people were electronically served the above document(s):

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- Robert Huth - e-Served to rhuth@khlblaw.com
- Carol Wilson - e-Served to cwilson@khlblaw.com
- Gregory Hanley - e-Served to GHANLEY@KICKHAMHANLEY.COM
- Kimberly Plets - e-Served to kplets@kickhamhanley.com
- Robert Carollo - e-Served to rcarollo@khlblaw.com
- Suzanne Hurley - e-Served to shurley@khlblaw.com
- Raechel Badalamenti - e-Served to rbadalamenti@khlblaw.com
- Edward Kickham - e-Served to ekickhamjr@kickhamhanley.com

Thank you,

MI Macomb 16th Circuit Court

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Kim Plets

From: TrueFiling <truefilingadmin@truefiling.com>
Sent: Thursday, August 15, 2019 4:02 PM
To: Kim Plets
Subject: Servicing Notification for 2018-001775-CZ

The document listed below is being electronically served to you for case **2018-001775-CZ** for **MI Macomb 16th Circuit Court** by **Court Administration (KACOOK)** from **MI Macomb 16th Circuit Court**

- Document Title: 2018-001775-CZ - STIP & ORDER SGD RE: - 8/14/2019
- Case Number: 2018-001775-CZ
- Description: RALPH STAELGRAEVE ET AL. VS. CHARTER TOWNSHIP OF SHELBY
- Link: [Click to download document](#)

The following people were electronically served this document.

- **Robert Huth** (rhuth@khlblaw.com)
- **Carol Wilson** (cwilson@khlblaw.com)
- **Gregory Hanley** (GHANLEY@KICKHAMHANLEY.COM)
- **Kimberly Plets** (kplets@kickhamhanley.com)
- **Robert Carollo** (rcarollo@khlblaw.com)
- **Suzanne Hurley** (shurley@khlblaw.com)
- **Raechel Badalamenti** (rbadalamenti@khlblaw.com)
- **Edward Kickham** (ekickhamjr@kickhamhanley.com)
- **Court Administration** (truefilingadmin@truefiling.com)

If you are unable to view the document using the hyperlink above, please copy and paste the entire URL into a web browser's address bar.

<https://eservice.truecertify.com/?loc=TFS-K9GL2D-A018AD23&key=tAMW>

Thank you,

MI Macomb 16th Circuit Court

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Kim Plets

From: info@truefiling.com
Sent: Thursday, August 15, 2019 4:35 PM
To: Kim Plets
Subject: Subject: MI Macomb 16th Circuit Court - Document Paid - Case No. 2018-001775-CZ

The document filed into Case No. 2018-001775-CZ, RALPH STAELGRAEVE ET AL. VS. CHARTER TOWNSHIP OF SHELBY has been **PAID**.

Filing Details

- Submitted: 8/14/2019 12:28 PM
- Document Type: PROPOSED ORDERS
- Filing Name: Stipulated Order Authorizing Class Notice
- Filed By: Gregory Hanley (P51204)
- Payment Amount: 0.00
- Link to view receipt: [Receipt](#)

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MI Macomb 16th Circuit Court

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Kim Plets

From: info@truefiling.com
Sent: Thursday, August 15, 2019 5:16 PM
To: Kim Plets
Subject: Subject: MI Macomb 16th Circuit Court - Document Filed - Case No. 2018-001775-CZ

The MI Macomb 16th Circuit Court has **FILED** your document into Case No. 2018-001775-CZ, RALPH STAELGRAEVE ET AL. VS. CHARTER TOWNSHIP OF SHELBY.

Filing Details

- Filing Name: Stipulated Order Authorizing Class Notice
- Document Type: PROPOSED ORDERS
- Filed: 8/14/2019 12:28 PM
- Filed By: Gregory Hanley (P51204)
- Link to view stamped document: [Download](#)

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