

**STATE OF MICHIGAN
INGHAM COUNTY CIRCUIT COURT**

JAMES HEOS,
individually and as representative
of a class of similarly-situated
persons and entities,

Case No. 20-199-CZ
Hon. Wanda M. Stokes

Plaintiff,

v.

CITY OF EAST LANSING,
a municipal corporation,

Defendant.

Gregory D. Hanley (P51204)
John J. Premo (P55393)
Edward F. Kickham Jr. (P70332)
Kickham Hanley PLLC
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Counsel for Plaintiff

Thomas M. Yeadon (P38237)
McGinty, Hitch, Person, Yeadon & Anderson,
P.C.
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Counsel for Defendant

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Counsel for Plaintiff

**ORDER GRANTING PLAINTIFF'S
MOTION FOR CLASS CERTIFICATION/WITHOUT PREJUDICE**

At a session of said Court held in the
City of Mason, County of Ingham,
State of Michigan on 8-5-20

PRESENT: HON. Wanda M. Stokes
Circuit Court Judge

The Court having reviewed Plaintiff's motion for class certification, and the brief in support and in opposition, the Court having held a hearing on the motion on August 5, 2020, 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 Plaintiff's 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 as defined as all persons and entities who/which have paid or incurred the Franchise Fees described in Plaintiff's Complaint during the relevant class periods is appropriate because (a) the class consisting of thousands of electric customers of the Lansing Board of Water and Light 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,, the Prohibited Taxes by Cities and Villages Act and/or the Foote Act, and whether the Franchise Fees violate equal protection guarantees; (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 the Abood Law Firm designated as Class Counsel.

B. With respect to Count I (Violation of Headlee Amendment), the Class is defined to include all persons and entities who/which have paid or incurred the Franchise Fees at any time since March 31, 2019 or who/which pay or incur the Franchise Fees during the pendency of this action.

C. With respect to Count II (Assumpsit for Money Had and Received – Violation of the Prohibited Taxes by Cities and Villages Act, MCL 141.91); Count III (Unjust Enrichment - Violation of the Prohibited Taxes by Cities and Villages Act, MCL 141.91); Count IV (Violation of State Equal Protection Guarantees), Count V (Unjust Enrichment – Violation of Foote Act), and Count VI (Assumpsit – Violation of Foote Act), the Class is defined to include all persons and entities who/which have paid or incurred the Franchise Fees at any time since June 6, 2017 or who/which pay or incur the Franchise Fees 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. Counsel for Plaintiff to provide the court with a copy of the entire SO ORDERED. retainer agreement with Mr. Heos for In-Camera Review only.

F. Certification of the class is granted without prejudice to subsequent motion by new counsel representing Defendant City of East Lansing within 30 days of appointment.

CIRCUIT COURT JUDGE

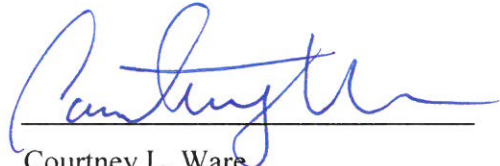
This is not a final order and does not close the case.

8/5/2020

Wanda M. Jones
CIRCUIT COURT JUDGE

PROOF OF SERVICE

I hereby certify that I provided a copy of the above ORDER to each attorney of record, or to the parties, by hand delivery, or by placing a true copy in a sealed envelope, addressed to each, with full postage prepaid and placing said envelope in the United States mail, on AUGUST 5, 2020.

A handwritten signature in blue ink, appearing to read "Courtney L. Ware", written over a horizontal line.

Courtney L. Ware
Law Clerk/Court Officer to the
Hon. Wanda M. Stokes