

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

|  |   |                          |
|--|---|--------------------------|
| KATHRYN FARMER, Individually, as       | ) |                          |
| Representative of a Class of Similarly | ) |                          |
| Situated Persons,                      | ) |                          |
|  | ) |                          |
| Plaintiff,                             | ) | Case No. 2021 CH 04583   |
|  | ) | Judge Allen Price Walker |
| vs.                                    | ) |                          |
|  | ) |                          |
| CITY OF CHICAGO, an Illinois           | ) |                          |
| Municipal Corporation,                 | ) |                          |
|  | ) |                          |
| Defendant.                             | ) |                          |

**DEFENDANT’S OPPOSITION TO  
PLAINTIFF’S MOTION FOR CLASS CERTIFICATION**

Plaintiff has filed a putative class action based on her claim that the water and sewer rates charged by the City of Chicago (“City”) are too high because of (1) the exemptions granted for certain water and sewer customers; and (2) the allocations of certain expenses to the water and sewer funds. She now seeks to certify a class of all those who have paid water and/or sewer charges in the City. However, Ms. Farmer is an inadequate class representative for the class as it is currently defined.

**LEGAL STANDARD**

The prerequisites for bringing a class action are set forth in the Illinois Code of Civil Procedure, 735 ILCS 5/2-801. That section provides that:

An action may be maintained as a class action in any court of this State and a party may sue or be sued as a representative party of the class only if the court finds:

- (1) The class is so numerous that joinder of all members is impracticable.
- (2) There are questions of fact or law common to the class, which common questions predominate over any questions affecting only individual members.
- (3) The representative parties will fairly and adequately protect the interest of the class.
- (4) The class action is an appropriate method for the fair and efficient adjudication of the controversy.

The proponent of the class action bears the burden to establish all four of the prerequisites. *LVNV Funding, LLC v. Davis*, 2020 IL App (5th) 190380, ¶ 8.

### PROPOSED CLASS

Ms. Farmer seeks to certify a class of “all persons or entities who/which have received water and/or sewer service within the City and who/which have incurred or paid Water and/or Sewer Rates and Charges on or after September 6, 2016 and who and who are not ‘Exempt Customers.’”<sup>1</sup> Plaintiff’s Motion for Class Certification, pp. 2-3.

### ARGUMENT

Plaintiff has failed in her burden to establish that she is an adequate representative of the putative class as it is currently defined.<sup>2</sup> First, she purports to represent class members from before she became a member of the class. This deprives her of standing to represent such putative class members. The second failing is that there are two types of water and/or sewer customers in Chicago—those who have water meters and those

---

<sup>1</sup> Plaintiff’s Motion defines “Exempt Customers” as those who are exempted from their obligations to pay water and/or sewer charges.

<sup>2</sup> City also notes that Plaintiff has not tendered a proposed notice to class members or a plan for distributing it. City reserves its right to object to such notice and plan when tendered by Plaintiff.

who do not. Those who do not have metered water service are subject to flat water charges imposed by ordinance. Ms. Farmer, however, is a metered water customer and the rates of which she complains are those impacting other metered customers. She is therefore an inadequate representative of those receiving non-metered service. A third reason why Ms. Farmer is inadequate is that she purports to represent those who received certain relief from paying the full metered rates under the Utility Billing Relief Program. The final reason why Ms. Farmer is an inadequate representative is that her aims are antagonistic to those of certain members in the class.

**A. Farmer Cannot Represent Those Who Paid Water and Sewer Rates Prior To Farmer Paying Water and Sewer Rates.**

It is a well-established principle that “if a putative class action plaintiff has not suffered the injury that he alleges other members of the putative class have suffered, that purported plaintiff cannot represent the class.” *Griffith v. Wilmette Harbor Ass’n.*, 378 Ill. App. 3d 173, 184 (1<sup>st</sup> Dist. 2007). There, the named plaintiff sought to certify a class of all persons who were on the waiting list for moorings at Wilmette harbor. However, the named plaintiff himself was not one of those on the waiting list. Consequently, the court found that he could not serve as a class representative for those who were on the waiting list.

The situation here is comparable. As quoted above, the class is defined as including all paying water and sewer customers starting from September 6, 2016. While Ms. Farmer is someone who received water and/or sewer service within the City and paid water and/or sewer charges, she only became a water and sewer customer of the

City in 2019. *See* Exhibit A at 4. To that end, she is an inadequate representative of those water and sewer customers prior to 2019 as Ms. Farmer suffered no alleged injuries prior to 2019. Therefore, the class needs to be limited to those paying customers starting from the date of Ms. Farmer's first water/sewer bill from the City.

**B. Farmer Cannot Represent Those Who Paid Unmetered Water and Sewer Charges.**

Plaintiff's Complaint and motion for class certification both fail to make a distinction between those water customers who have a water meter and those who do not. As currently defined, the putative class includes both types of customers. The distinction between the two types is relevant because unmetered customers are not subject to the same rates as metered customers. Code Section 11-12-270 sets out the flat charges for water based on the size of the property receiving water. Plaintiff's identified "common question" of whether the exemptions set forth in Code Section 11-12-540 resulted in unreasonably high water rates is not relevant to unmetered customers. Code Section 11-12-540(a) explicitly states: "If the account for such property is not controlled by meter, no exemption shall apply." Furthermore, since the sewer rates are a percentage of a customer's water charge, unmetered water customers are also in a different posture than metered water customers with respect to sewer charges.

So, not only are non-metered customers not subject to the allegedly "excessive" rates, Ms. Farmer is a metered customer (Exhibit B at 23)<sup>3</sup> and thus has no standing to

---

<sup>3</sup>Exhibit B is a one-page excerpt of Kathryn Farmer's deposition.

represent those customers who pay for unmetered water or sewer service. The class, therefore, must be limited to include only metered water and sewer customers.

**C. Farmer Cannot Represent Those Who Received Utility Billing Relief.**

There is a similar problem with the definition of the class given that certain water and sewer customers pay reduced rates under the Utility Billing Relief Program (“Program”), Code Section 11-12-545. This section enables low-income homeowners to pay a significantly reduced rate for both water and sewer service for each year they are enrolled in the Program. While the participants in this Program would necessarily be included in the putative class definition as those who incurred and paid water and sewer charges, such participants would not have suffered the alleged damage of paying the allegedly exorbitant rates. Therefore, the class must exclude all participants in the Program.

**D. Farmer’s Interests Are Antagonistic To Certain Members of the Class.**

Plaintiff has commingled both water and sewer customers in the same class definition. She claims that the exemptions granted for both water and sewer charges resulted in excessive rates. While it is convenient to refer to both water and sewer charges together, it is inappropriate to do so when defining the class as the exemptions are different for water and sewer. Specifically, Code Section 3-12-050 grants an exemption from sewer charges to those 65 years or older under certain circumstances. There is no comparable water exemption.

A problem therefore arises with a putative class period spanning a period of 10 years when one considers that certain members of the class who may not have been

entitled to exemptions at the start of the class period became eligible for the exemptions later in the class period. For example, someone who was 62 in 2019 and thus not eligible for a sewer exemption (i.e., a class member) becomes 65 in 2022 and is now potentially eligible for a sewer exemption. And, as an exempt customer, that individual is benefitting from the senior exemption set forth in the Code -- the same exemption Ms. Farmer, as class representative, is arguing should be eliminated because it results in an excessive sewer charge. Plainly, the named plaintiff's position is antagonistic to those who become eligible for the senior exemption at some point during the defined time period for the class. A party seeking to represent a class cannot seek relief that is "potentially antagonistic to the members of the class." *Client Follow-Up Co. v. Hynes*, 105 Ill. App. 3d 619, 625 (1st Dist. 1982). The class must be redefined to exclude all individuals who became eligible for the senior exemption for sewer rates at any point during the class period.

### CONCLUSION

For the reasons stated above, the class should not be certified under the current definition of the class. The class must be redefined to account for the issues raised.

By: /s/ Jason L. Rubin  
One of Defendant's attorneys

February 20, 2026

Attorney No. 90909  
Susan Jordan  
Steven J. Tomiello  
Jason L. Rubin  
City of Chicago, Department of Law  
2 North LaSalle St., Suite 440  
Chicago, IL 60602  
[Susan.Jordan@cityofchicago.org](mailto:Susan.Jordan@cityofchicago.org)  
[Steven.Tomiello@cityofchicago.org](mailto:Steven.Tomiello@cityofchicago.org)  
[Jason.Rubin@cityofchicago.org](mailto:Jason.Rubin@cityofchicago.org)  
312-744-6921/7803/4174

### CERTIFICATE OF SERVICE

I, Steven Tomiello, certify I caused **Defendant's Opposition to Plaintiff's Motion for Class Certification** to be served on the individuals below by the e-filing system and/or electronic mail on February 20, 2026, before 5:00 p.m.

  
\_\_\_\_\_

### SERVICE LIST

Gregory D. Hanley  
Kickham Hanley PLLC  
32121 Woodward Ave., Ste. 300  
Royal Oak, MI 48073  
[ghanley@kickhamhanley.com](mailto:ghanley@kickhamhanley.com)

Alex Moskovic  
Moskovic & Assoc., Ltd.  
3233 N. Arlington Heights Rd., Ste. 303  
Arlington Heights, IL 60004  
[amoskovic@moskoviclaw.com](mailto:amoskovic@moskoviclaw.com)

FILED  
2/21/2025 12:09 PM  
Mariyana T. Spyropoulos  
CIRCUIT CLERK  
COOK COUNTY, IL  
2021CH04583  
Calendar, 3  
31514864

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS**  
**COUNTY DEPARTMENT, CHANCERY DIVISION**

|   |   |                         |
|---|---|-------------------------|
| KATHRYN FARMER, Individually, and as            | ) |                         |
| Representative of a Class of Similarly-Situated | ) |                         |
| Persons and Entities                            | ) |                         |
|   | ) | Case No. 2021CH04583    |
| Plaintiff,                                      | ) |                         |
|   | ) | Hon. Allen Price Walker |
| v.  | ) |                         |
|   | ) |                         |
| CITY OF CHICAGO, an Illinois Municipal          | ) |                         |
| Corporation,                                    | ) |                         |
|   | ) |                         |
| Defendant.                                      | ) |                         |

**PLAINTIFF'S AMENDED SUPPLEMENTAL RESPONSES AND OBJECTIONS TO DEFENDANT CITY OF CHICAGO'S INTERROGATORIES AND DOCUMENT REQUESTS TO PLAINTIFF**

Plaintiff, Kathryn Farmer ("Plaintiff"), by and through her attorneys, Kickham Hanley PLLC and Moskovic & Associates, Ltd., individually, and on behalf of a class of similarly situated persons and entities states the following as her **amended supplemental** responses and objections to Defendant City of Chicago's ("Defendant" or "City") Interrogatories and Document Requests:

**GENERAL OBJECTIONS**

1. Plaintiff prepared her amended supplemental responses in accordance with the Illinois Supreme Court Rule Nos. 201, 213 and 214, and objects to each interrogatory and document request to the extent that it purports to impose obligations upon Plaintiff beyond those placed upon her by these Rules. Plaintiff further objects to the City's Definitions and Instructions to the extent they seek to impose obligations beyond those of the Illinois Supreme Court Rules.

2. Plaintiff prepared her responses in accordance with Illinois Supreme Court Rule Nos. 201, 213 and 214, based on information identified or available to Plaintiff at the present time. Plaintiff,



FILED DATE: 2/20/2026 11:12 AM 2021CH04583  
FILED DATE: 2/21/2025 12:09 PM 2021CH04583

however, reserves the right to offer additional evidence at trial based on knowledge or information not yet identified or within the possession, custody, or control of Plaintiff. Discovery is ongoing, and new information may come to light.

3. Supplemental responses and/or production of documents will be made as required by Rule 213 (i) and Rule 214 (d).

4. Whenever a discovery request seeks production of, or a list of, “every” or “all” (or similar words) facts or documents relating to or regarding a topic, Plaintiff has responded with the information and documents presently in her knowledge or possession, but the responses may not include “every” or “all” (or similar words) documents or facts regarding a topic for the reason that such requests are unduly burdensome, over broad, oppressive, unreasonable, and are not calculated to lead to relevant information.

5. Plaintiff assumes that Defendant does not request any privileged or confidential documents or information. If Defendant does seek privileged or confidential documents or information, Plaintiffs object to any such request in reliance upon the attorney-client privilege, the work product doctrine, and all other privileges and immunities recognized in law.

6. Plaintiff reserves the right to present in evidence all documents, papers, writings, and correspondence which have been produced to Defendant or which are in the possession of or are known to Defendant, without regard to whether or not the same has been identified or produced in response to these discovery requests.

7. Plaintiff expressly reserves the right to investigate, identify and discover any sources of information during the pendency of this case and to use any such information at trial in support of her case.

8. Plaintiff objects to each Interrogatory and Document Request to the extent it seeks information or documents that are already in the possession, custody and/or control of Defendant,

and thus, seeks documents or information more readily obtainable from Defendant. Plaintiffs will provide information and documents in response to the Interrogatories and Document Requests only to the extent they are not already in the possession, custody and control of Defendant.

9. Any agreement to produce documents is not a representation or concession that any such document exists or will be found upon a diligent search. Any objection to producing documents is not a representation or concession that documents responsive to a particular request exist.

**PLAINTIFF'S AMENDED SUPPLEMENTAL RESPONSE TO OBJECTION NO 8,  
AND REQUEST FOR PRODUCTION OF DOCUMENTS NO. 5**

The City has expressed concern with regard to Plaintiff's Objection No. 8, which provides:

Plaintiff objects to each Interrogatory and Document Request to the extent it seeks information or documents that are already in the possession, custody and/or control of Defendant, and thus, seeks documents or information more readily obtainable from Defendant. Plaintiffs will provide information and documents in response to the Interrogatories and Document Requests only to the extent they are not already in the possession, custody and control of Defendant.

the City requested that Plaintiff provide written assurance that Plaintiff would "with respect to documents in the City's possession identify any supplemental production by Bates number or link or some other identifier if you are not producing a physical copy."

In response to the City's request, Plaintiff states that a majority of documents that are within the City's possession, custody and control that Plaintiff will use to support her claims primarily will be identified by the Bates label assigned by the City. Should the document not have a City-assigned Bates label, Plaintiff will identify documents Plaintiff intends to use that are within the City's possession, custody and control, by use of a source link, exhibit number, or will provide a physical copy of the document with a Bates label assigned by Plaintiff.

With regard to the City's Request for Production of Documents No. 5, which states:

1. For each year from 2015 to present, documents that show you were a City water and

sewer customer and the amounts you paid for water and sewer services in each year.

**INITIAL RESPONSE:**

Plaintiff objects to this request because it seeks documents—Plaintiff’s billing records—that are within the City’s possession, custody, and control. In further response, Plaintiff states that her billing address is: 6033 W Matson Ave., Chicago IL 60646-3823 and billing account number is: 1278540-377024.

**SUPPLEMENTAL RESPONSE:**

The City requested that Plaintiff provide “confirmation of whether Ms. Farmer was a Chicago water and sewer customer before 2019.” Plaintiff states that her home was purchased in May 2019.

**AMENDED SUPPLEMENTAL RESPONSE:**

Plaintiff states that she was not a water and sewer customer of the City prior to purchasing her home in May 2019.

**AFFIDAVIT OF COMPLETENESS**

Pursuant to Ill. Sup. Ct. Rule 214, Plaintiff avers, through her counsel, that the document production is complete in accordance with the City’s requests.

KICKHAM HANLEY PLLC  
By: /s/ Gregory D. Hanley

|   |  |
|---|--|
| <p>Counsel for Plaintiff<br/>Gregory D. Hanley<br/>Kickham Hanley PLLC<br/>32121 Woodward Avenue, Suite 300<br/>Royal Oak, MI 48073<br/>E-mail: <a href="mailto:ghanley@kickhamhanley.com">ghanley@kickhamhanley.com</a><br/>Phone: (248) 544-1500<br/>Attorney No. 65814</p> | <p>Co-Counsel for Plaintiff<br/>Alex Moskovic<br/>Moskovic &amp; Associates, Ltd.<br/>3233 N. Arlington Heights Road, Suite 303<br/>Arlington Heights, IL 60004<br/>E-mail: <a href="mailto:amoskovic@moskoviclaw.com">amoskovic@moskoviclaw.com</a><br/>Phone: (847) 797-1300; Fax: (847) 797-1350<br/>Attorney No. 45923</p> |
|---|--|

Dated: February 21, 2025

**CERTIFICATE OF SERVICE**

I, Jamie Warrow, an attorney, certify under penalty of perjury pursuant to 735 ILCS 5/1-109 that on February 21, 2025, I served a copy of *Plaintiff's Amended Supplemental Responses and Objections to Defendant City of Chicago's Interrogatories and Document Requests to Plaintiff* by the Odyssey electronic filing system (service only) and by e-mailing a copy of same to the parties listed below from e-mail [jwarrow@kickhamhanley.com](mailto:jwarrow@kickhamhanley.com).

/s/ Jamie Warrow

Service List:

Susan Jordan [Susan.Jordan@cityofchicago.org](mailto:Susan.Jordan@cityofchicago.org)

Steven Tomiello at [Steven.Tomiello@cityofchicago.org](mailto:Steven.Tomiello@cityofchicago.org)

Scott Crouch at [Scott.Crouch@cityofchicago.org](mailto:Scott.Crouch@cityofchicago.org)

Sunny Baxter at [Sunny.Baxter@cityofchicago.org](mailto:Sunny.Baxter@cityofchicago.org)

1           IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
2                           COUNTY DEPARTMENT - CHANCERY DIVISION

3  
4       KATHRYN FARMER, Individually,           )  
5       and as Representative of a Class        )  
6       of Similarly Situated Persons         )  
7       and Entities,                            )  
8                    Plaintiff,                    )  
9       vs.                                        ) No. 21 CH 04583  
10      CITY OF CHICAGO, an Illinois         )  
11      Municipal Corporation,                )  
12                    Defendant.                )

13  
14           The deposition of KATHRYN FARMER, called  
15      for examination taken pursuant to the provisions of  
16      the Code of Civil Procedure and the Rules of the  
17      Supreme Court of the State of Illinois pertaining  
18      to the taking of depositions for the purpose of  
19      discovery taken before RAELENE STAMM,  
20      CSR No. 084-004445, Certified Shorthand Reporter  
21      licensed by the State of Illinois, on the 23rd day  
22      of January, 2026, at Two North LaSalle Street,  
23      Suite 420, Chicago, Illinois, at the hour of  
24      1:30 p.m.



1 they're responsible for. And what they're paying  
2 and if it's going towards water and sewer, it  
3 should only go towards water and sewer. That's the  
4 issue here.

5 Q. When did you first become a city water  
6 customer?

7 A. Back in 2018 when I bought the home.

8 Q. And you receive the water and sewer  
9 services at your home, correct?

10 A. Yes.

11 Q. And does your home have a water meter?

12 A. Yes.

13 Q. Do you have copies of your water and sewer  
14 bills?

15 A. Yes.

16 Q. All of them?

17 A. Yes, and so should the City.

18 Q. Are you aware that the City asked for your  
19 water and sewer bills in discovery?

20 A. Yes.

21 Q. Is there a reason you didn't produce them?

22 A. My attorneys have all the water bills they  
23 need and information regarding that. And also the  
24 City should have that, correct?