

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

CLINT YOBY, <i>et al.</i> ,)	CASE NO. CV-15-852708
)	
Plaintiff,)	JUDGE JANET R. BURNSIDE
)	
V.)	
)	
CITY OF CLEVELAND,)	
)	
Defendant.)	

**NOTICE OF PENDENCY OF CLASS ACTION,
CERTIFICATION OF CLASS**

This is a court-authorized notice. This is not a solicitation from a lawyer.

Please be advised that your rights may be affected by the above-captioned class action lawsuit (the “Class Action”) pending in the Cuyahoga County Court of Common Pleas. If you were a Cleveland Public Power customer at any time between April 1, 1984 and the present and you paid a bill that included an “Energy Adjustment Charge” during a time when Cleveland Public Power was making an “Environmental Adjustment” in the billed “Energy Adjustment Charge” your rights may be affected.

PLEASE READ THIS NOTICE CAREFULLY. This Notice explains important rights you may have in relation to the Class Action. If you are a member of the “Class,” as defined below, your legal rights will be affected whether or not you act. If you have any questions about this Notice, or your eligibility to participate in the Class Action, please DO NOT contact Cleveland Public Power, any other Defendants in the action, or their counsel. Do not contact the Cuyahoga County Common Pleas Court, Judge Janet Burnside or her staff during the pendency of this action. All questions should be directed to the attorneys who represent the Plaintiffs and the Class. (see below for contact information).

FREQUENTLY ASKED QUESTIONS

1. What is this lawsuit about?

This Class Action lawsuit was brought by a Cleveland Public Power customer. The name of the lawsuit is *Clint Yoby v. City of Cleveland*, Case No. CV-15-852708. The case is pending in the Cuyahoga County Court of Common Pleas. The “Plaintiffs” or “Class Representatives” are Clint Yoby, 2362 Professor Avenue LLC, Tremont Scoops LLC and Tymex Plastics, Inc.

The lawsuit alleges that CPP failed to disclose in its bills to customers that it was charging them for “Environmental and Ecological Adjustments.” The lawsuit also alleges that CPP improperly charged customers for Environmental and Ecological Adjustments to cover costs that were not related to environmental protection. The lawsuit brings claims for fraud and breach of contract. The lawsuit seeks damages for all customers who paid for Environmental and Ecological Adjustments.

Cleveland Public Power and the City of Cleveland (“CPP”) deny that they violated any laws or did anything wrong. CPP has denied all liability and has asserted that all adjustments made to customer bills were authorized by the relevant city ordinances which govern the operation of the utility.

The Court has not decided who is right and who is wrong regarding the allegations and claims in the lawsuit.

The “Class” is defined as: ALL CLEVELAND PUBLIC POWER CUSTOMERS WHO PAID BILLS THAT INCLUDED AN ‘ENERGY ADJUSTMENT CHARGE’ DURING A TIME WHEN CLEVELAND PUBLIC POWER WAS MAKING AN ENVIRONMENTAL ADJUSTMENT IN THE BILLED ENERGY ADJUSTMENT CHARGE.

The “Class Period” is limited to the time period during which CPP included an Environmental Adjustment as a component of the “Energy Adjustment Charge” line-item that appeared on customers’ bills.

The Court certified the case as a class action. You are receiving this Notice because, according to CPP’s records, you may be a member of the Class certified by the Court.

The lawsuit was filed on October 15, 2015. The current complaint in the lawsuit was filed on June 30, 2017. The case is known as *Yoby v. City of Cleveland*, Case No. CV-15-852708, and is pending before the Honorable Janet R. Burnside in the Court of Common Pleas for Cuyahoga County, Ohio.

2. What is a Class Action?

In a class action, one or more individuals can bring a lawsuit on behalf of others who are “similarly situated” to them. The Court has decided that the Class Representatives, Mr. Clint Yoby, 2362 Professor Avenue LLC, Tremont Scoops LLC and Tymex Plastics, Inc., are representative of the other CPP customers who may be “Class Members” and that the Class Representatives may proceed with their claims on behalf of the Class. One Court will resolve all issues for the entire Class. If the Class prevails, each member of the Class may be eligible for a recovery.

3. What are the Plaintiffs asking for?

The Plaintiffs are seeking damages in the form of refunds of charges for each CPP customer who paid a bill that included an Environmental and Ecological Adjustment as a part of a line-item called the “Energy Adjustment Charge.” The Plaintiffs are also seeking an award of attorneys’ fees, costs, and interest.

4. Why did I get this notice?

The Court directed that this Notice be mailed to you because CPP records show that you paid one or more electric bills that included an “Energy Adjustment Charge” during a time when CPP included an Environmental and Ecological Adjustment in that Charge. The Court has directed us to send you this Notice because, as a potential Class Member, you have a right to understand your options before the Court rules on any potential judgment or proposed settlement. Additionally, you have the right to understand how this class action lawsuit may generally affect your legal rights.

The purpose of this Notice is to inform you of the existence of this case, that it is a class action, how you might be affected, and how to exclude yourself from the Class if you so wish to do so. The issuance of this Notice is not an expression of any opinion by the Court concerning the merits of any claim in the Class Action. The Court has not ruled upon the merits of any claims in this Class Action.

5. How do I know if I am affected by the Class Action? Who is included in the Class?

If you are a Class Member, you are subject to this Class Action unless you timely request to be excluded from the Class. The Class consists of:

ALL CLEVELAND PUBLIC POWER CUSTOMERS WHO PAID BILLS THAT INCLUDED AN ‘ENERGY ADJUSTMENT CHARGE’ DURING A TIME WHEN CLEVELAND PUBLIC POWER WAS MAKING AN ENVIRONMENTAL ADJUSTMENT IN THE BILLED ENERGY ADJUSTMENT CHARGE.

Excluded from the class are the Court and its staff, counsel, and the immediate family members of the same, as well as employees of the City of Cleveland and any Class Member who properly opts out of the Class Action after receiving this Notice.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

DO NOTHING AND REMAIN A CLASS MEMBER	<p>By doing nothing, you will be included in this lawsuit as a Class Member. This means that you may share in any monetary recovery that might come from a trial or a settlement in this case. You will, however, give up any rights to sue the City of Cleveland for the claims that are at issue in this Class Action and you will be bound by any judgments or orders entered by the Court in this Class Action.</p>
EXCLUDE YOURSELF FROM THE CLASS (“Opt- Out”) BY SUBMITTING A WRITTEN REQUEST FOR EXCLUSION THAT IS <u>RECEIVED NO LATER THAN MARCH 20, 2018.</u>	<p>If you wish to be excluded from the Class, you must complete and return the “Opt-Out Form” included with this Notice to the address noted on the Opt-Out Form.</p> <p>If you exclude yourself from the Class, you will not be eligible to share in any potential monetary recovery obtained by the Class. This means that you give up the possibility of a monetary recovery that may come from a trial or settlement in this case.</p> <p>If you exclude yourself from the Class, however, you will not be bound by any judgments or orders entered by the Court in this Class Action and you will retain any rights you may have to sue the City of Cleveland on your own for the same claims at issue in this Class Action. Opting out of the Class is the only option that allows you to ever be a part of any other lawsuit against these Defendants concerning the same claims at issue in this Class Action.</p> <p>The Opt-Out Form must be <u>received</u> no later than March 20, 2018. You will not be able to exclude yourself from the Class after that date. A request for exclusion from the Class shall not be valid unless it provides all of the information requested on the Opt-Out Form and the completed Opt-Out Form is <u>received</u> within the time state above, or is otherwise accepted by the Court. If you do not want to be part of the Class, you must follow these instructions for exclusion even if you have pending, or later file, another lawsuit, arbitration or other proceeding against these Defendants concerning the same claims at issue in this Class Action.</p> <p>If you have any questions about this process or this Notice you may contact Class Counsel at the addresses, phone numbers or emails listed below. You may also go to www.ClevelandPublicPowerClassAction.com for more information about the Class Action. Customers should not contact the Cuyahoga County Court of Common Pleas, Judge Janet Burnside, or her staff during the pendency of this action.</p>

6. How are Class Members Affected by the Action?

Class Members are already represented by the Class Representatives and Class Counsel in this Class Action. You may enter an appearance in the Class Action at your own expense, however, through counsel of your choice. You are not required to retain your own counsel, but if you choose to do so, such counsel must file a notice of appearance on your behalf and must serve copies of his or her appearance on the attorneys who have appeared in the case.

If you do not wish to remain a Class Member, you may exclude yourself from the Class by following the instructions in the above section. If you wish to remain a Class Member, you will be bound by any judgments or orders entered by the Court in this Class Action, whether favorable or unfavorable.

7. Who are the attorneys for Class Members?

Class Members will be represented by the attorneys (“Class Counsel”) who represent the Plaintiffs, Class Representatives and the Class:

LANDSKRONER GRIECO MERRIMAN, LLC
1360 West 9th Street, Suite 200
Cleveland, Ohio 44113
216.522.9000
cpplawsuit@lqmlegal.com

BASHEIN & BASHEIN CO. LPA
Terminal Tower, 35th Floor
50 Public Square
Cleveland, Ohio 44113
216.771.3239
jhurst@basheinlaw.com

SCOTT+SCOTT, Attorneys at Law, LLP
12434 Cedar Road, Suite 12
Cleveland Heights, Ohio 44106
800.404.7770
scottcases@scott-scott.com

MEYERS, ROMAN, FRIEDBERG & LEWIS
Eton Tower, Suite 500
28601 Chagrin Boulevard

Cleveland, Ohio 44122
216.831.0042
cblake@meyersroman.com

You can learn more about the law firms on their websites: www.teamlgm.com, www.basheinlaw.com, www.scott-scott.com, and www.meyersroman.com.

If you do not want to be represented by these attorneys, you may choose to retain your own counsel (at your own expense).

8. How will the lawyers be paid?

Class Counsel have been prosecuting the Class Action on a contingent basis since its inception. Class Counsel have entered into a contingency fee agreement with the Class Representatives. Class Members are not personally liable for any attorney's fees incurred to prosecute this Class Action.

If there is any monetary recovery by the Class, the various law firms serving as Class Counsel will apply to the Court for an award of attorney's fees in an amount not to exceed 33% of any monetary recovery by the Class. The Court must approve Class Counsel's application before any attorney's fees are awarded. The total amount of any such award of attorney's fees must be determined and approved by the Court.

9. How do I get more information?

More information about the Class Action is available by visiting the website www.ClevelandPublicPowerClassAction.com, calling the toll-free number 1-866-645-6914, or writing to *Yoby v. City of Cleveland*, Class Action Administrator, PO Box 404041, Louisville, KY 40233, Email info@ClevelandPublicPowerClassAction.com, or by contacting Class Counsel.

Under no circumstances should customers contact the Cuyahoga County Court of Common Pleas, Judge Janet Burnside, or her staff, during the pendency of this action.