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E-FILED
8/2/2021 3:25 PM
Superior Court of California
County of Fresno
By: L Peterson, Deputy

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15 *Attorneys for Plaintiffs and Class Members*

16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **COUNTY OF FRESNO**

18 KAREN MICHELI, et al.,
19 Plaintiffs,
20 v.
21 THE CITY OF FRESNO, et al.,
22 Defendants.

23 JACKIE FLANNERY, et al.,
24 Plaintiffs,
25 v.
26 THE CITY OF FRESNO, et al.
27 Defendants.

Lead Case No. 16CECG02937
Consolidated with Case No. 17CECG01724

CLASS ACTION

NOTICE OF ENTRY OF ORDERS

*Assigned for All Purposes to:
Hon. Rosemary T. McGuire, Dept. 502*

Lead Action Filed: 9/9/2016
Consolidated Action Filed: 5/17/2017
Trial Date: Not Set

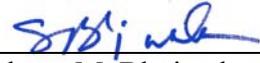
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TO ALL PARTIES AND THEIR COUNSEL OF RECORD HEREIN:

PLEASE TAKE NOTICE of the Court’s entry of orders granting Plaintiffs’ Renewed Motion for Class Certification in the above-captioned, consolidated class actions. A true and correct copy of the Court’s July 30, 2021 Law and Motion Minute Order and Order After Hearing is attached hereto as Exhibit 1. A true and correct copy of the Court’s August 2, 2021 Order Granting Plaintiffs’ Renewed Motion for Class Certification is attached hereto as Exhibit 2.

DATED: August 2, 2021

Respectfully submitted,
BOUCHER LLP

By: 
Shehnaz M. Bhujwala

COTCHETT, PITRE & MCCARTHY LLP
Julie L. Fieber, Esq.
Attorneys for Plaintiffs and Class Members

EXHIBIT 1

Order After Hearing

Re: **Micheli v. City of Fresno**
Superior Court Case No. 16CECG02937

Hearing Date: July 21, 2021 (Dept. 502)

Motion: By Plaintiffs for Certification of Class Action

Ruling:

After considering the moving and opposing briefs and evidence and hearing oral argument, the court hereby grants plaintiffs' motion to certify the class. (Code Civ. Proc. § 382.)

Objections to the Evidence:

1. Plaintiffs' Declarations

Defendant has filed hundreds of objections to nearly every statement made in every declaration of the representative plaintiffs. In the court's assessment there is no legitimate basis for the vast majority of the objections asserted. As an example, Ronda Rafidi states in her Declaration: "I first noticed discolored, rusty water in my home sometime in the year of 2004." This statement was objected to on the grounds that it lacks foundation, lacks personal knowledge and is speculation. The statement, which is based on her own personal knowledge and observation, does not lack foundation and is not speculative. There are numerous examples of similar meritless objections.

The court has reviewed each declaration and each objection asserted and rules as follows:

Declaration of Shann Hogue: Objections to Items 1-16 are overruled.

Declaration of Ronda Rafidi: Objections to Items 1-14 are overruled.

Declaration of Jackie Flannery: Objections to Items 1-15 are overruled.

Declaration of Jeannette Grider: Objections to Items 1-13 are overruled. The objection to Item 14 is overruled except for the following portion: "which apparently the State Water Board had not known and had not permitted the City to do." The objection on grounds of speculation is sustained. Items 15-22 and 24-32 are overruled. Item 23 is sustained on lack of foundation grounds.

Declaration of Marirose Larkins: Objections to Items 1-16 are overruled.

Declaration of Guadalupe Meza: Objections to Items 1-14 are overruled.

Declaration of Karen Micheli: Objections to Items 1-30 are overruled.

Declaration of Michael Micheli: Objections to Items 1-26 are overruled.

Declaration of David Nitschke: The objection to the second sentence of Item 7 is sustained as it lacks personal knowledge and is hearsay. The objection to Item 8 is sustained as the statement lacks foundation and lacks personal knowledge. The remaining objections asserted in Items 1-28 are overruled.

Declaration of Faith Nitschke: Objections to Items 1-24 are overruled with the exception of the last sentence of Item 6. The objection on hearsay grounds is sustained.

Declaration of Harry Rixman: Objections to Items 1-15 are overruled.

Declaration of Kelly Unruh: Objections to Items 1-13 are overruled.

Declaration of Patricia Wallace Rixman: Objections to Items 1-15 are overruled.

2. Expert Declarations

"[U]nder Evidence Code sections 801, subdivision (b), and 802, the trial court acts as a gatekeeper to exclude expert opinion testimony that is (1) based on matter of a type on which an expert may not reasonably rely, (2) based on reasons unsupported by the material on which the expert relies, or (3) speculative." (*Sargon Enterprises, Inc. v. University of Southern California* (2012) 55 Cal.4th 747, 771-772.) Thus, "[w]here the matter relied upon does not provide a reasonable basis for the opinion (e.g., because it is irrelevant) or the opinion is based on a leap of logic or conjecture, the opinion may be excluded." (*Apple Inc. v. Superior Court* (2018) 19 Cal.App.5th 1101, 1117.)

Here, the court overrules all of the objections to the plaintiffs' expert declarations, as the declarations are based on matter of a type on which an expert may rely, they are based on reasons that are well-supported, and they are not speculative.

Request for Judicial Notice:

Defendant requests that the court take judicial notice of the exhibits and regulations referenced in paragraphs 1-16 of the Declaration of Matthew McMillan pursuant to Evidence Code sections 452(b)(c) and (d). The request for judicial notice is granted. However, in light of the fact that plaintiffs do not allege violation of a numeric drinking water standard or a general qualitative objective as the basis for the causes of action set forth in the operative Fifth Amended Complaint, the matters which are judicially noticed do not impact the findings related to class certification set forth in this ruling.

Explanation:

1. Requirements for Class Certification

Under Code of Civil Procedure section 382, "when the question is one of a common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court, one or more may sue or defend for the benefit of all." (Code Civ. Proc., § 382.)

"The party seeking certification as a class representative must establish the existence of an ascertainable class and a well-defined community of interest among the class members. The community of interest requirement embodies three factors: (1) predominant common questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class." (*Richmond v. Dart Industries, Inc.* (1981) 29 Cal.3d 462, 470, internal citations omitted.)

"Conditional approval of the class is appropriate where the plaintiff establishes the four prerequisites of Federal Rule of Civil Procedure 23(a) - (1) numerosity, (2) commonality, (3) typicality, and (4) adequacy of representation - as well as one of the three requirements of Rule 23(b)." (*Vasquez v. Coast Valley Roofing, Inc.* (E.D. Cal. 2009) 670 F.Supp.2d 1114, 1121, internal citation omitted.)

"A proposed class must be 'so numerous that joinder of all members is impracticable.' The numerosity requirement demands 'examination of the specific facts of each case and imposes no absolute limitations.' Courts have routinely found the numerosity requirement satisfied when the class comprises 40 or more members." (*Ibid*, internal citations omitted.)

"The 'ultimate question' the element of predominance presents is whether 'the issues which may be jointly tried, when compared with those requiring separate adjudication, are so numerous or substantial that the maintenance of a class action would be advantageous to the judicial process and to the litigants.' The answer hinges on 'whether the theory of recovery advanced by the proponents of certification is, as an analytical matter, likely to prove amenable to class treatment.' A court must examine the allegations of the complaint and supporting declarations and consider whether the legal and factual issues they present are such that their resolution in a single class proceeding would be both desirable and feasible. 'As a general rule if the defendant's liability can be determined by facts common to all members of the class, a class will be certified even if the members must individually prove their damages.'" (*Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1021-1022, internal citations omitted.)

" ' "The certification question is 'essentially a procedural one that does not ask whether an action is legally or factually meritorious.' "A class certification motion is not a license for a free-floating inquiry into the validity of the complaint's allegations; rather, resolution of disputes over the merits of a case generally must be postponed until after class certification has been decided, with the court assuming for purposes of the

certification motion that any claims have merit." (*Id.* at p. 1023, internal citations omitted.)

"The burden rests with the plaintiff to show that substantial benefits, both to the litigants and to the court, will result from class certification." (*Collins v. Safeway Stores, Inc.* (1986) 187 Cal.App.3d 62, 68, internal citation omitted.)

A. Numerosity and Ascertainability

"To be certified, a class must be 'numerous' in size such that 'it is impracticable to bring them all before the court.' (Code of Civ. Proc., § 382.) 'The requirement of Code of Civil Procedure section 382 that there be "many" parties to a class action suit is indefinite and has been construed liberally.... No set number is required as a matter of law for the maintenance of a class action. [Citation.] Thus, our Supreme Court has upheld a class representing the 10 beneficiaries of a trust in an action for removal of the trustees. [Citation.]' [Citation.]" (*Hendershot v. Ready to Roll Transportation, Inc.* (2014) 228 Cal.App.4th 1213, 1222.)

" 'The ultimate issue in evaluating this factor is whether the class is too large to make joinder practicable....' [Citation.] ' "[I]mpracticality" does not mean "impossibility," but only the difficulty or inconvenience of joining all members of the class. [Citation.]' [Citation.] 'The numerosity requirement requires examination of the specific facts of each case and imposes no absolute limitations.' [Citation.] 'In addition to the size of the class, the court may also consider the nature of the action, the size of the individual claims, the inconvenience of trying individual suits, and any other factor relevant to the practicability of joining all the putative class members.' [Citation.]" (*Ibid.*)

Here, plaintiffs have presented evidence indicating that the proposed class will encompass at least 1,800 to 2,500 people, if not more, based on the number of complaints received by the City regarding discolored water. (Plaintiffs' Exhibit 24 at pp. 8:10-13:25, 15:7-17; Exhibit 26, p. 108:20-24, Exhibit 27 and Exhibits 2 and 3 thereto.) This number of potential class members is more than enough to satisfy the numerosity requirement, as it would be impractical to join such a large number of plaintiffs to an action, particularly considering the amount of damages at stake, the inconvenience of having the plaintiffs try their claims individually, and the nature of the claims being made. Therefore, the court finds that the proposed class is sufficiently numerous to justify certification.

The proposed class also appears to be relatively easy to ascertain. "A class representative has the burden to define an ascertainable class. Although the representative is not required to identify individual class members, he or she must describe the proposed class by specific and objective criteria. Ascertainability is achieved "'by defining the class in terms of objective characteristics and common transactional facts making the ultimate identification of class members possible....'" Thus, ' " '[c]lass members are "ascertainable" where they may be readily identified without unreasonable expense or time by reference to official [or business] records.' ""' (*Sevidal v. Target Corp.* (2010) 189 Cal.App.4th 905, 918–919, internal citations omitted.)

"The ascertainability requirement is satisfied if 'the potential class members may be identified without unreasonable expense or time and given notice of the litigation, and the proposed class definition offers an objective means of identifying those persons who will be bound by the results of the litigation....'" (*Id.* at p. 919, internal citation omitted.)

Here, the plaintiffs have defined the proposed class members in a specific and objective way, as the proposed class includes all property owners of single family residences with galvanized plumbing who made complaints about discolored, "rusty" water in Northeast Fresno during a specific timeframe. The homes in the proposed class are located from East Copper Avenue to East Sierra Avenue, and from State Route 41 to North Willow Avenue. This is the same area designated by the City as the area where the complaints about discolored water originated during its investigation. (Plaintiffs' Exhibits 27 and 28.) The City has records of the complaints in its possession, as well as test results from the investigation. (Plaintiffs' Exhibits 24 at pp. 15:21-16:18; Ex. 26 at pp. 28:4-29:11; Bhujwala Decl., Exhibits 9, 10.) Thus, it should not be difficult to determine which homes and homeowners are included within the proposed class. As a result, the ascertainability requirement has been satisfied.

The City argues in opposition that the ascertainability requirement has not been met because there were widely varying reports of different types of discolored water, there is no way to distinguish between the various types of plumbing systems in the houses that reported discoloration, and there is no way to determine which houses actually received water from the Northeast Fresno Surface Water Treatment Facility. However, the City has a database of all complaints made by homeowners in the defined area regarding discolored water, which should allow the parties to determine which homes fall into the proposed class. The City's contentions appear to be primarily addressed to issues of proving whether the use of surface water actually caused harm to plaintiffs' pipes, which is a separate issue from the question of whether there is an ascertainable class. Therefore, the court finds that the proposed class is sufficiently ascertainable.

B. Community of Interest

1. Commonality

Plaintiffs have satisfied the commonality requirement, as they are asserting that all proposed class members suffered harm to their galvanized plumbing systems due to the City's use of surface water after many years of using only groundwater. They also allege that the City failed to disclose that its use of surface water might be causing the water discoloration that customers were complaining of, and failed to report the discolored water complaints to the State as it was required to do. They are also alleging that the City engaged in improper attempts to address the problem on its own that may have contributed to further damage to the customers' pipes. The City's own investigation and evaluation reflected WQTS report dated September 16, 2016 ultimately concluded that the use of surface water was the likely cause of the discoloration. (Boucher decl., Exhibit 31, at COF0250854-COF0250855.)

Thus, the proposed class shares common issues and claims that are suitable to class treatment. While the City contends that the proposed class members' homes will each have different types of piping, different plumbing designs, and that other factors may have caused the discoloration in their water, these issues do not appear to be enough to show that the proposed class does not allege a common set of claims based on similar facts and similar alleged harm. All of the class members were allegedly subjected to the same kind of harm from the same source, namely the City's use of surface water which allegedly damaged their galvanized pipes. The City has also raised the same defenses to plaintiffs' claims, many of which can presumably be resolved on a class-wide basis. If the class is not certified, the proposed class members would have to bring their claims individually, which could be impractical and burdensome, as each individual case would presumably cost more to litigate than each plaintiff would recover in damages.

Also, while defendant argues that the plaintiffs do not share common claims because their properties are all different and they will have to prove up how much harm the use of surface water caused to each property on an individual basis, the City's own investigation concluded that use of surface water was the likely cause of the harm to plaintiffs' pipes. In any event, the fact that individual damages may have to be calculated at some point does not necessarily require denial of certification. (*Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 332.) It appears that liability can be determined on a class-wide basis, so the fact that individual damages may have to be calculated later does not defeat the motion for certification.

Furthermore, although the City argues that many of the plaintiffs' claims are likely barred by the statute of limitations, which is an issue that must be decided on a case-by-case basis for each plaintiff, courts have found that the potential application of statute of limitations defenses to individual claims does not bar class certification. "[C]ourts have been nearly unanimous ... in holding that possible differences in the application of a statute of limitations to individual class members, including the named plaintiffs, does not preclude certification of a class action so long as the necessary commonality and ... predominance are otherwise present." (*In re Energy Systems Equip. Leasing Sec. Litigation* (E.D.N.Y. 1986) 642 F.Supp. 718, 752-753; see also *Mass. Mutual Life Ins. Co. v. Superior Court* (2002) 97 Cal.App.4th 1282, 1295.) "No California court has declined to certify a class action specifically because of a statute of limitations defense." (*Lockheed Martin Corp. v. Superior Ct.* (2003) 29 Cal.4th 1096, 1105, fn. 4.) Here, plaintiffs have adequately shown commonality, so the fact that defendant has raised statute of limitations defenses does not prevent the class from being certified.

2. Typicality

"The test of typicality 'is whether other members have the same or similar injury, whether the action is based on conduct which is not unique to the named plaintiffs, and whether other class members have been injured by the same course of conduct.' [Citation.]" (*Seastrom v. Neways, Inc.* (2007) 149 Cal.App.4th 1496, 1502, quoting *Hanon v. Dataproducts Corp.* (9th Cir. 1992) 976 F.2d 497, 508.) "[R]epresentative claims are 'typical' if they are reasonably co-extensive with those of absent class members; they

need not be substantially identical." (*Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1020.)

The record contains competent evidence supporting findings of typicality. The named plaintiffs are all homeowners of single family residences within the designated area of Northeast Fresno. They all allege that their galvanized pipes were damaged by the City's use of surface water, and that they complained of discolored water to the City but that the City did nothing until 2016, when a large number of homeowners started complaining about the water discoloration. While there may be some minor variations between the claims raised by the different plaintiffs and class members, their claims are generally typical of the claims of the class as a whole. Therefore, this requirement has also been satisfied.

3. Adequacy of Representation

It also appears that the named plaintiffs would be adequate class representatives. "[C]lass status may be denied only if antagonism of such a substantial degree is shown that the purpose of class certification would be defeated if the motion were granted." (*Richmond v. Dart Industries, Inc.* (1981) 29 Cal.3d 462, 472, internal citation omitted.) "Named representatives will not fairly and adequately protect the interests of the class when there are conflicts of interest between them and the class they seek to represent. 'It is axiomatic that a putative representative cannot adequately protect the class if his interests are antagonistic to or in conflict with the objectives of those he purports to represent.'" (*Seastrom v. Neways, Inc.* (2007) 149 Cal.App.4th 1496, 1502, internal citations omitted.)

Here, there is no evidence that plaintiffs bear any animosity to the other proposed class members, or that they would have any conflict of interest in representing the class. Indeed, it appears that they are highly motivated to represent the class, since they were some of the first people to complain about the water problems and they have been highly proactive in seeking redress for the problem. They have also been very active in the litigation, including providing written discovery, sitting for depositions, and providing declarations in support of the motion for certification. Therefore, plaintiffs have shown that they are adequate representatives of the class.

Defendant argues that because there is no representative for Subclass 2, the motion should be denied. However, the general definition of the class allows for the named plaintiffs to represent Subclass 2. The fact that there are two subclasses does not change the fundamental nature of the class so that plaintiffs from Subclass 1 cannot represent both subclasses.

Likewise, plaintiffs' counsel are highly experienced and competent class litigation attorneys, so they are qualified to represent the interests of the class members here. As a result, the court finds that the plaintiffs and their counsel are adequate class representatives.

C. Benefits of Certifying the Class

Defendant argues the merits of the case. Defendant points to the fact that Plaintiffs' expert, Dr. Stevick, relies heavily on a preliminary hypotheses in the 2016 report by City consultant, WQTS, to support their theory that the City's introduction of surface water from the NESWTF caused corrosive damage and discolored water. A Pilot Study Report, also prepared by WQTS on June 24, 2019 and produced to plaintiffs August 23, 2019, apparently contradicts certain findings in the 2016 report. However, the fact that there are inconsistencies in the two reports does not preclude certification. "The certification question is 'essentially a procedural one that does not ask whether an action is legally or factually meritorious.' " (*Sav-On Drug Stores, Inc. v. Superior Court*, *supra*, 34 Cal.4th at p. 326, quoting *Linder v. Thrifty Oil Co.*, *supra*, 23 Cal.4th at pp. 439-440; see also *Eisen v. Carlisle & Jacquelin* (1974) 417 U.S. 156, 178, 94 S.Ct. 2140, 40 L.Ed.2d 732 ["In determining the propriety of a class action, the question is not whether the plaintiff or plaintiffs have stated a cause of action or will prevail on the merits, but rather whether the requirements of [class certification] are met.'])

A court must examine the allegations of the complaint and supporting declarations (*ibid.*) and consider whether the legal and factual issues they present are such that their resolution in a single class proceeding would be both desirable and feasible. "As a general rule if the defendant's liability can be determined by facts common to all members of the class, a class will be certified even if the members must individually prove their damages." (*Hicks v. Kaufman & Broad Home Corp.* (2001) 89 Cal.App.4th 908, 916; accord, *Knapp v. AT&T Wireless Services, Inc.* (2011) 195 Cal.App.4th 932, 941.) *Brinker Rest. Corp. v. Superior Ct.* (2012) 53 Cal. 4th 1004, 1021-22.)

Plaintiffs have shown the benefits of certifying the class here. If certification is denied, each individual class member will have to bring a separate lawsuit for the damages that were allegedly caused to their plumbing systems by the City's use of surface water. The individual plaintiffs may not be sufficiently motivated to file suit, as their damages will be relatively small compared to the cost of bringing suit. Thus, many hundreds or even thousands of people may lose their right to compensation for the harm allegedly caused to their homes. Also, if hundreds of people are forced to file individual lawsuits to seek redress for the damage to their plumbing, it will create a significant burden on the court as well as the parties. It would be more efficient to litigate all of the claims in a single case rather than forcing the individual homeowners to litigate each claim separately. Therefore, plaintiffs have satisfied their burden of showing that it would be more beneficial to certify the class than to force the proposed class members to bring individual claims.

As a result, the court hereby grants the motion for class certification.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk

will constitute notice of the order.

Ruling
Issued By: RTM on 7/30/21.
(Judge's initials) (Date)

EXHIBIT 2

FILED

AUG -2 2021

FRESNO COUNTY SUPERIOR COURT

By _____ DEPT. 502

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FRESNO COUNTY SUPERIOR COURT
By: C. York, Deputy

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15 Attorneys for Plaintiffs and the Putative Class

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA

17 COUNTY OF FRESNO, CENTRAL DIVISION

18 KAREN MICHELI, et al.,
19 Plaintiffs,
20 v.
21 THE CITY OF FRESNO, et al.,
22 Defendants.

23 JACKIE FLANNERY, et al.,
24 Plaintiffs,
25 v.
26 THE CITY OF LOS ANGELES, et al.
27 Defendants.

Lead Case No. 16CECG02937
Consolidated with Case No. 17CECG01724

CLASS ACTION

[PROPOSED] ORDER GRANTING
PLAINTIFFS' RENEWED MOTION FOR
CLASS CERTIFICATION

Date: June 16, 2021
Time: 3:30 P.M.
Dept.: 502

Assigned for All Purposes to:
Hon. Rosemary T. McGuire, Dept. 502

Lead Action Filed: 9/9/2016
Consolidated Action Filed: 5/17/2017
Trial Date: Not Set

RTM
July 21,

1 Plaintiffs' Renewed Motion for Class Certification was heard on ~~June 16~~, 2021, in
2 Department 502 of the Superior Court of California for the County of Fresno. The Court, having
3 considered all of the written and oral papers, evidence, and arguments submitted by Plaintiffs in
4 support of Plaintiffs' Motion, and by Defendant City of Fresno in opposition to Plaintiffs' Motion,
5 hereby grants Plaintiffs' Motion and issues these orders:

6 1. The Court certifies the consolidated actions entitled *Micheli, et al. v. City of Fresno*
7 and *Flannery, et al. v. City of Fresno* as maintainable as a consolidated class action.

8 2. The Court certifies following "class" and two "subclasses" defined as:

9 All owners of residential, single family real property located within
10 the City of Fresno's Discolored Water investigation area (from E.
11 Copper Avenue to E. Sierra Avenue, and from State Route 41 to N.
12 Willow Avenue), who, anytime between January 1, 2016 and
13 present: (1) had galvanized iron plumbing; (2) received water
14 service from the City of Fresno; (3) reported discolored, "rusty"
15 water at that address to the City of Fresno; and (4) have not released
16 their claims against the City ("Class").

17 All owners of residential, single family real property
18 located within the City of Fresno's Discolored Water
19 investigation area (from E. Copper Avenue to E.
20 Sierra Avenue, and from State Route 41 to N. Willow
21 Avenue), who, anytime between January 1, 2016 and
22 present: (1) had galvanized iron plumbing; (2)
23 received water service from the City of Fresno; (3)
24 reported discolored, "rusty" water at that address to
25 the City of Fresno; (4) obtained water quality test
26 results from the City of Fresno indicating iron at any
27 tested fixture above 0.3 mg/L; and (5) have not
28 released their claims against the City ("Subclass 1").

29 All owners of residential, single family real property
30 located within the City of Fresno's Discolored Water
31 investigation area (from E. Copper Avenue to E.
32 Sierra Avenue, and from State Route 41 to N. Willow
33 Avenue), who, anytime between January 1, 2016 and
34 present: (1) had galvanized iron plumbing; (2)
35 received water service from the City of Fresno; (3)
36 reported discolored, "rusty" water at that address to
37 the City of Fresno; (4) have not obtained water
38 quality test results from the City of Fresno; and (5)
39 have not released their claims against the City
40 ("Subclass 2").

41 3. The Court finds that the Class satisfies all of the requirements for class certification
42 pursuant to California Code of Civil Procedure section 382 and California Rule of Court 3.760 *et*
43

1 *seq.* The Court finds that the Class is sufficiently numerous, ascertainable and that there is a
2 sufficiently well-defined community of interest among the Class arising from common and
3 predominant questions of law and fact. A class action is the superior mechanism by which to
4 adjudicate the claims alleged against the City of Fresno in the consolidated cases.

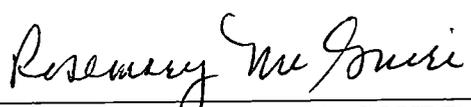
5 4. Plaintiffs Karen and Michael Micheli, individually and as trustees of the Michael
6 Micheli and Karen Micheli Trust; Faith and David Nitschke, individually and as trustees of the
7 Nitschke Family Trust of 2000; Jeanette Grider; Jackie Flannery; Guadalupe Meza, Ronda Rafidi,
8 Shann Conner, Marirose Larkins, Patricia and Harry Wallace-Rixman, and Kelly Unruh are found
9 to be adequate to serve as Class Representatives, having claims typical of the Class members and
10 no apparent conflicts of interests.

11 5. Plaintiff's counsel Raymond P. Boucher and Shehnaz M. Bhujwala of Boucher
12 LLP; Stuart R. Chandler of Chandler Law; Frank M. Pitre, Julie L. Fieber, and Donald J.
13 Magilligan of Cotchett, Pitre & McCarthy LLP; Michael E. Gatto of Law Office of Michael E.
14 Gatto PC; and Brian S. Kabateck and Christopher B. Noyes of Kabateck LLP are found to have
15 the experience and qualifications to adequately represent and protect the interests of the Class, and
16 are hereby appointed as Class Counsel.

17 6. The parties are ordered to meet and confer and within 30 days of this order develop
18 a notice plan that complies with the requirements of California Rule of Court 3.766, and any other
19 applicable law, after which time the Court will set a status conference regarding notice to the class
20 and the schedule through trial counsel.

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22 IT IS SO ORDERED.

23
24 DATED: Aug. 2, 2021

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27 _____
28 JUDGE OF THE SUPERIOR COURT OF
CALIFORNIA FOR THE COUNTY OF FRESNO

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PROOF OF SERVICE

**Karen Micheli, et. al. v. The City of Fresno, et. al.
Lead Case No. 16CECG02937**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 21600 Oxnard Street, Suite 600, Woodland Hills, CA 91367-4903.

On August 2, 2021, I served true copies of the following document(s) described as **NOTICE OF ENTRY OF ORDERS** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY E-MAIL OR ELECTRONIC TRANSMISSION: Pursuant to Code of Civil Procedure section 1010.6 and California Rule of Court 2.251, or pursuant to the Court's order authorizing electronic service, or by an agreement of the parties, I caused the document(s) to be sent from e-mail address Nelson@boucher.la to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on August 2, 2021, at Woodland Hills, California.



Natalie Nelson

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SERVICE LIST
Karen Micheli, et. al. v. The City of Fresno, et. al.
Lead Case No. 16CECG02937

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