

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF FRESNO

If you own or owned residential, single-family real property within the City of Fresno’s Discolored Water Investigation Area anytime between January 1, 2016 and August 2, 2021, a class action lawsuit may affect your rights.

PLEASE READ THIS NOTICE CAREFULLY. IT AFFECTS YOUR LEGAL RIGHTS.

Para una notificación en español, visite www.cptgroupcaseinfo.com/DiscoloredWaterLawsuit

A Court approved this Notice to inform you of a consolidated class action lawsuit that is being litigated on behalf of all owners of residential, single-family real property located within the City of Fresno’s Discolored Water investigation area (from E. Copper Avenue to E. Sierra Avenue, and from State Route 41 to N. Willow Avenue), who, anytime between January 1, 2016 and August 2, 2021: (1) had galvanized iron plumbing; (2) received water service from the City of Fresno; (3) reported discolored, “rusty” water at that address to the City of Fresno; and (4) have not released their claims against the City.

Your rights may be affected by the legal proceedings in this class action lawsuit. At this time, there is no resolution of the lawsuit that would entitle you to money or other benefits.

I. WHAT IS THIS LAWSUIT ABOUT?

The Fresno County Superior Court approved this Notice to inform potential Class Members of a consolidated class action lawsuit. The lead class action is *Micheli, et al. v. City of Fresno*, Fresno County Superior Court Case Number 16CECG02937. The Plaintiffs in the lawsuit allege that the City of Fresno’s water prematurely corroded and destroyed the galvanized iron plumbing in Northeast Fresno area residents’ homes, resulting in their receipt of discolored, “rusty” water. Plaintiffs allege the City of Fresno is responsible for certain economic losses suffered under civil claims of negligence, nuisance, breach of contracts, and breach of implied warranties, including the cost of replumbing Plaintiffs’ and Class Member homes, reimbursement of the cost of discolored, corrosive water, pre/post judgment interest, and attorney’s fees and litigation costs. The Plaintiffs in the class action do not allege personal injury claims or seek damages for personal injury claims, nor do they seek diminution in value damages.

The City denies any liability or wrongdoing of any kind associated with any of the claims alleged by Plaintiffs in the class action lawsuit, and maintains that its practices were lawful and permissible under California and Federal laws. The City maintains that the presence of iron in water is an aesthetic issue only under the Safe Drinking Water Act; that it has not violated any numeric standards under the Safe Drinking Water Act; and that the State of California and US EPA have concluded that the City’s corrosion control was optimized during all times at issue.

The class action has been heavily prosecuted and defended by the parties over the past several years. No decision has been made regarding the merits of Plaintiffs’ claims, the City’s liability or wrongdoing, or whether the Plaintiffs and Class Members are entitled to any money at this time. Those issues will be decided at a later time or at trial, which has been scheduled to begin July 25, 2022.

By court orders dated July 30, 2021 and August 2, 2021, the Honorable Rosemary T. McGuire of the Fresno County Superior Court granted the Plaintiffs’ request to proceed as a class action and represent the following class:

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

The Court also certified two “subclasses”, one for Class Members who have “obtained water quality test results from the City of Fresno indicating iron at any tested fixture above 0.3 mg/L” (“Subclass 1”), and one for Class Members who “have not obtained water quality test results from the City of Fresno” (“Subclass 2”).

Excluded from the Class are Defendant City of Fresno or any entity or division therein, and its legal representatives, officials, and employees; also excluded is any judicial officer presiding over this action, the judge’s staff members, and any member of the judge’s immediate family.

The Court’s decision means that the Court has decided that the Plaintiffs, and the law firms representing Plaintiffs, will represent the Class Members’ interests for the claims at issue in the lawsuit. The five law firms appointed to serve as Class Counsel are: Boucher LLP, Chandler Law, Cotchett, Pitre & McCarthy LLP, Kabateck LLP, and Law Offices of Michael E. Gatto. If Class Counsel gets money or benefits for the Class, they may ask the Court for fees and expenses. You will not have to pay these fees and expenses. If the Court grants Class Counsel’s request, the fees and expenses would be either deducted from any money obtained for the Classes or paid separately by the City of Fresno. The Court’s decision is a procedural decision that means that the lawsuit may proceed as a class action, on behalf of Class Members.

II. AM I A CLASS MEMBER?

You may be a Class Member if you own or owned residential, single-family real property within the City of Fresno’s Discolored Water investigation area (from E. Copper Avenue to E. Sierra Avenue, and from State Route 41 to N. Willow Avenue), and, anytime between January 1, 2016 and August 2, 2021: (1) had galvanized iron plumbing; (2) received water service from the City of Fresno; (3) reported discolored, “rusty” water at that address to the City of Fresno; and (4) have not released your claims against the City. To obtain more information about the class action and whether you are a Class Member, please visit www.cptgroupcaseinfo.com/DiscoloredWaterLawsuit to review the complaint and answer, and other key documents and information.

III. WHY DID I GET THIS NOTICE?

On November 3, 2021, the Court ordered that you receive this Notice. You have received this Notice based on the business records of the City, which indicate that you may be a member of the Class because you reported discolored water to the City of Fresno at a residential address within the City of Fresno’s Discolored Water investigation area (from E. Copper Avenue to E. Sierra Avenue, and from State Route 41 to N. Willow Avenue), sometime between January 1, 2016 and August 2, 2021.

Additionally, to the extent you are a Class Member and obtained water quality test results from the City of Fresno indicating iron at any tested fixture above 0.3 mg/L, you may also be a member of Subclass 1. If you are a Class Member and you have not obtained water quality test results from the City of Fresno, you may be a member of Subclass 2.

Your legal rights may be affected whether you act or do not act. Your options are summarized in this Notice.

IV. WHAT ARE MY LEGAL RIGHTS AND OPTIONS?

Please review the Class Member description provided in Section I carefully. If you are a member of the Class and/or one of the Subclasses, you must decide whether to stay in the Class (and be bound by whatever results) or exclude yourself (and keep your right to sue the City of Fresno in your own separate lawsuit).

A. OPTION ONE: DO NOTHING AND PARTICIPATE IN THE LAWSUIT.

If you wish to remain a Class Member, you do not need to do anything at this time to participate in the lawsuit.

If you do nothing, you will give up your right to sue the City of Fresno separately about the same legal claims at issue in the lawsuit. You will be represented by the law firms court-appointed to serve as Class Counsel. At your option, if you remain a Class Member, you may also enter an appearance through your own lawyer. If the Plaintiffs prevail in the claims at issue in the lawsuit, you may be eligible to receive a portion of any monetary settlement or award issued to the Class Members. You will not be compensated for any claims that you may have already settled or that a Court decided in a prior lawsuit. **If you choose**

to do nothing at this time and remain a Class Member, you will be bound by the Court's decisions and by the final judgment, whether it is favorable or not. You may be asked to provide certain proof of class membership at a later time.

B. OPTION TWO: EXCLUDE YOURSELF (“OPT OUT”) FROM THE LAWSUIT.

If you do not wish to participate as a Class Member in the lawsuit or to be bound by the decisions or judgments in the lawsuit for any reason, including because you may wish to preserve your right to pursue any individual claims you may have against the City separately, you must exclude yourself from the lawsuit (“opt out”).

To opt out of the lawsuit, you must mail a completed, signed, and dated Request for Exclusion form to the Class Administrator (“Class Administrator”) at the address provided below **postmarked by February 14, 2022.** Your Request for Exclusion form must include your full, legal name, your address of the single-family residence for which you reported discolored, “rusty” water to the City anytime between January 1, 2016 and August 2, 2021 (“Class Property”), your telephone number and email address (if any), your current residential address, if different from the Class Property address, and your City of Fresno water account number for the Class Property. **You must complete, sign and date your Request for Exclusion form, and mail it to the Class Administrator postmarked by February 14, 2022, for it to be valid.** The Class Administrator will provide notice to the Court and the parties of your decision to exclude yourself from the lawsuit.

The Request for Exclusion form must be sent to:

Micheli, et al. v. City of Fresno
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606

Anyone who submits a timely, completed, signed, and dated Request for Exclusion form to the Class Administrator will, upon the Class Administrator’s receipt of it, not be a Class Member, and will not be entitled to receive any portion of any settlement, award, or any other relief provided to Class Members if the Plaintiffs prevail in the lawsuit. However, if you choose to opt out of the lawsuit, you will preserve your right to pursue (or not pursue) any potential or actual civil claims you may have against the City of Fresno separately and will not be bound by any decisions made in the lawsuit or by the final judgment in the lawsuit. Also, if you choose to opt out of the lawsuit, you will not be represented by the Plaintiffs or the law firms appointed to serve as Class Counsel.

V. THE TRIAL

The Court has not yet held a trial to decide who is right in this case. Trial is scheduled to begin July 25, 2022, and the date will also be posted on the website, www.cptgroupcaseinfo.com/DiscoloredWaterLawsuit. You do not need to attend the trial. Class Counsel will present the case for the Plaintiffs, and lawyers for City of Fresno will present on their behalf. You or your own lawyer is welcome to attend at your own expense.

VI. WHAT SHOULD I DO IF I NEED ADDITIONAL INFORMATION?

This Notice is intended only to provide a summary of the lawsuit.

For more detailed information, you may examine the documents filed in the lawsuit at any time during regular business hours at the Office of the Clerk of the Fresno County Superior Court. You may also view the court filings online via the Court’s website (<https://publicportal.fresno.courts.ca.gov/fresnoportal/>) and by entering case number 16CECG02937.

Additionally, the Class Administrator has set up a website (www.cptgroupcaseinfo.com/DiscoloredWaterLawsuit), which will enable you to review a copy of this Notice, a copy of the Plaintiffs’ current Fifth Amended Class Action Complaint and the City’s Answer, copies of the Court’s July 30, 2021 and August 2, 2021 Orders granting class certification, and a copy of the Request for Exclusion Form, among other case information.

You may seek the advice and guidance of your own private attorney, at your own expense, if you desire. If you should have any questions, you may also contact the Class Counsel listed below.

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The City of Fresno and Court will not respond to any questions regarding this Notice or the Lawsuit.

PLEASE DO NOT CALL OR WRITE THE CITY OF FRESNO OR THE COURT ABOUT THIS NOTICE.

JUDGE: HONORABLE ROSEMARY MCGUIRE

FRESNO COUNTY SUPERIOR COURT