

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

OMAR JABER, on behalf of himself and all others)
similarly situated,)
)
Plaintiff,)
vs.)
)
THE VILLAGE OF TINLEY PARK, a)
municipal corporation,)
)
Defendant.)

No. 15 CH 12754

CLASS ACTION SETTLEMENT AGREEMENT

Subject to the terms and conditions of this Class Action Agreement and Court approval, Plaintiff, Omar Jaber, individually and as representative of the class of persons and entities defined below in Paragraph 7, and Defendant Village of Tinley Park enter into this Class Action Settlement Agreement.

AGREEMENT

- 1.0 Definitions. When used in this Agreement, the following definitions shall apply.
 - 1.1 Plaintiff. The term "Plaintiff" shall refer to Omar Jaber, in his individual capacity as well as his capacity as representative of a class of persons and entities defined in Paragraph 7 below.
 - 1.2 Defendant or Village. The terms "Defendant" and "Village" shall refer to Village of Tinley Park.
 - 1.3 Lawsuit. The term "lawsuit" shall mean any and all allegations or claims against any defendant that were contained, or could have been contained, in the

lawsuit captioned *Omar Jaber vs. Village of Tinley Park*, 15-CH-12754 (Cook County Illinois), and explained in further detail in Paragraph 2.2.

1.4 Parties. The term “Parties” shall refer to the parties to this Agreement, including all members of the Class.

1.5 Plaintiff’s Attorneys. The term “Plaintiff’s Attorneys” shall refer to the law firms of Larry D. Drury, Ltd. and Alexander & Assoc., LLC.

1.6 Class Counsel. The term “Class Counsel” shall refer to the law firms of Larry D. Drury, Ltd. and John H. Alexander & Assoc., LLC.

1.7 Class. The term “Class” shall have the definition assigned below in Paragraph 7 below.

1.8 Settlement Class. The term “Settlement Class” shall refer to all members of the Class who shall become bound by this Class Action Settlement Agreement pursuant to the terms set forth below.

1.9 Severn Trent. The term “Severn Trent” shall refer to the company known as Severn Trent Metering Services, including its parent, subsidiary, and successor companies.

1.10 Water Meters. The term “Water Meters” (whether used in the singular or plural) shall refer specifically to the “smart meters” purchased by the Village of Tinley Park which were manufactured by Severn Trent, having the model numbers “SE700E” and “SM700E,” and which have a size of 5/8 of an inch, or 0.625 inches.

1.11 Class Administrator. The term “Class Administrator” shall refer to the company First Class, Inc. which has been retained to administrate claims submitted to recover.

1.12 Quarter or Quarterly Billing Cycle. The term “Quarter” or “Quarterly Billing Cycle” shall refer to the time frame in which the Village bills its customers for water as well as to the amount of water recorded by Severn Trent Water Meters during the same 3-month period.

1.13 Released Parties. The term “Released Parties” shall mean the parties being released in this Agreement, including specifically: the Village of Tinley Park, as well as its past, present and future employees, elected officials, agents, heirs, executors, administrators, insurers, the Intergovernmental Risk Management Agency, officers, members, and directors.

2.0 Background.

2.1 The Village of Tinley Park operates a water distribution system, selling water to its customers based on the readings taken by water meters. Beginning in approximately 2003, the Village began to install Severn Trent Water Meters to register the amount of water for its customers. Prior to the filing of this lawsuit, when the Village concluded that a Water Meter over-recorded for water, the Village would make good faith efforts to resolve the issue with its customers and would issue refunds or provide credits.

2.2 The Lawsuit. On August 25, 2015, the Plaintiff filed this this Lawsuit, entitled *Omar Jaber vs. Village of Tinley Park*, 15-CH-12754 (Cook County Illinois), individually and on behalf of the Class, alleges that the Village of Tinley Park utilized

Water Meters which inaccurately recorded the actual flow of water for customers of the Village's water distribution system, and that the Village billed customers based on inaccurate Water Meter readings. The Lawsuit alleges that some of the subject Water Meters engaged in "spinning" in which more water was recorded than actually flowed through the meter, resulting in spikes in recorded usage.

2.3 Village's Actions Following Filing of the Lawsuit. Consistent with its prior practices, after the lawsuit was filed, the Village continued to provide credits and refunds to customers when it concluded that a customer's Water Meter had over-recorded. Further, on June 7, 2016, the Tinley Park Village Board voted to approve various contracts to remove all Severn Trent Water Meters and replace them with different meters. The total cost to replace all Severn Trent Water Meters was estimated to be approximately \$6.5 million, which included the cost for the meters, radios, labor and related hardware and technology. As of October 2018, approximately 98% of all Severn Trent Water Meters had been removed and replaced with different meters.

3.0 Denial of Liability. The Village denies the allegations of the Complaint. Nevertheless, the Village desires to settle all claims solely to avoid the expense, burden, and uncertainty of further litigation, and to put to rest all claims, known or unknown, that have been or might have been asserted by the Plaintiff or the Settlement Class against it concerning the matters alleged in the Class Action Complaint.

4.0 Class Action Settlement in the Best Interest of the Class. Plaintiff's counsel has conducted a sophisticated and extensive investigation into the claims asserted in the Complaints, the facts adduced during discovery, and the applicable law and has

concluded that it is in the best interest of the Class to enter into this Class Action Settlement Agreement. Likewise, Plaintiff, individually and on behalf of the Class, desires to settle his claims and those of the Class against the Village. Plaintiff, individually and on behalf of the Class, and Plaintiff's Counsel base their conclusions upon an analysis of the risks, delays, and difficulties involved in obtaining class certification; the risk that class certification might be denied; the difficulties involved in establishing a right to recovery, calculating damages on a classwide basis, and the ability to recover an amount in excess of that offered by this settlement; and the likelihood that further litigation will be both protracted and expensive, with no guaranty of success.

5.0 No Admission of Liability. The Parties and their respective attorneys acknowledge and agree that this settlement is made to avoid the uncertainty of the outcome of litigation and the expense in time and money of further litigation and for the purpose of judicial economy. The parties acknowledge and agree that the settlement of this claim is not an admission of liability or wrongful conduct by or on the part of the Village and/or its future, current or former Board members, officers, agents and employees, and shall not serve as evidence or notice of any wrongdoing by or on the part of the Village or any of its agents. The Parties agree that this Agreement is a compromise of disputed claims. The Parties agree that as a result, this Agreement may not be construed, in whole or in part, as an admission of liability to any person by the Village, nor shall this Agreement or any part or draft thereof be offered or received in evidence in any action or proceeding as an admission of liability of the Village.

6.0 Effective Date. If there is no objection to the Court approving this Settlement, then this Agreement shall become effective on the first date on which all of the following have occurred: (1) all Parties to this Agreement have executed it, (2) the Order and Final Judgment has been entered by the Court (Final Judgment Order), and (3) if there is any timely objection, the time has expired within which to review or appeal of the Final Approval Order may be taken, without any review or appeal having been taken therefrom or, if such review or appeal is taken, such review or appeal shall have been finally determined (subject to no right of further review or appeal) by the highest court before which such review or appeal is sought and allowed, and such review or appeal shall have been resolved in such manner as to permit the consummation of the settlement effected by this Agreement in accordance with all of its terms and provisions.

7.0 Class Definition. The Class shall be defined as:

All current and former account-holders (based on the Village's records concerning who is the holder of the account) for residential and commercial accounts of the Village of Tinley Park water system, who paid for water based on the readings taken by a Severn Trent Water Meter installed on the property, for readings taken between January 1, 2010 until the date of the Preliminary Approval Order.

8.0 Maximum Class-Wide Payment. Subject to the Court's approval, the parties agree that the maximum payment the Village will make to the Class to settle all claims belonging to Class Members (including any service award to Class Representative Omar Jaber, individually) is FOUR HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$425,000.00). Payment to individual members of the class will be based on the schedule provided in Paragraph 10.0 through 10.4 below.

9.0 Service Award. Subject to the Court's approval, the Parties agree that class representative, Omar Jaber, individually, shall be paid a service award of FIVE THOUSAND DOLLARS (\$5,000.00). The Service Award is made to the Plaintiff for the time and effort undertaken in and the risks of pursuing this Litigation, including the risk of liabilities for the Parties' costs of suit. The Parties agree that amount of this Service Award shall be inclusive of any other amounts Omar Jaber would otherwise be able to recover pursuant this Settlement Agreement.

10.0 Payment Schedule to Individual Class Members. Subject to the Court's approval, the parties agree that the Village's obligation to make payment pursuant to this Agreement shall be based on the following criteria, applicable to readings from Severn Trent Water Meters for recorded Meter readings taken between January 1, 2010 to the date the Court enters the Preliminary Approval Order.

10.1 One Quarter in Excess of 35,000 Gallons. For any Class Member that was billed based on a Severn Trent Water Meter reading in excess of 35,000 gallons during one quarterly billing cycle, then such Class Member shall be entitled to a payment of TEN DOLLARS (\$10.00)

10.2 Two Quarters in Excess of 35,000 Gallons. For any Class Member that was billed based on a Severn Trent Water Meter reading in excess of 35,000 gallons during two quarterly billing cycles, then such Class Member shall be entitled to a payment of FIFTEEN DOLLARS (\$15.00).

10.3 Three or More Quarters in Excess of 35,000 Gallons. For any Class Member that was billed based on a Severn Trent Water Meter reading in excess of 35,000 gallons

during three or more quarterly billing cycles, then such Class Member shall be entitled to a payment of TWENTY DOLLARS (\$20.00).

10.4 Zero Quarters in Excess of 35,000 Gallons. For any Class Member that whose Severn Trent Water Meter did not record a quarterly billing cycle in excess of 35,000 gallons, then such Class Member shall be entitled to a payment of THREE DOLLARS (\$3.00).

10.5 Multiple Meters. In determining whether a reading was in excess of 35,000 gallons, each meter associated with an account shall considered individually. Under no circumstances will the readings of multiple meters be added together.

11.0 Mutual Integration. The Parties agree and stipulate that this Agreement was negotiated at arm's-length basis between the Parties if equal bargaining power and the Parties jointly participated in drafting the Agreement. Therefore, no ambiguity shall be construed in favor of or aganst any party.

12.0 Pro Rata Share. In the event that the total number of claims submitted exceeds the Maximum Class-Wide Payment specified in Paragraph 8.0, then the claimants shall recover a *pro rata* share of the settlement funds.

13.0 Intentionally Left Blank.

14.0 Class Claims Administrator. The Village shall be solely responsible for retaining the Class Claims Administrator and for paying the costs of the Class Claims Administrator, including the cost to print and mail Settlement Class Members their settlement checks.

14.1 Class Administrator to Issue Checks. All settlement checks shall be issued by the Class Claims Administrator to the Settlement Class Members based on claims submitted by the Settlement Class Members.

14.2 Class Administrator to Rely on Village's Records. In the event of a dispute concerning the number of Quarters in which a Severn Trent Water Meter recorded in excess of 35,000 gallons of water, the Parties agree that the records of the Village of Tinley Park will control, and that the Class Administrator shall rely solely on the Village records in issuing payment.

14.3 Village to Provide Funding to Class Administrator. Upon the Effective Date identified in Paragraph 6.0, the Class Claims Administrator shall notify the Village as to the number of claims submitted in each category described in Paragraphs 10.0 through 10.4, as well as the total amount of money necessary to pay the claims of the Settlement Class Members. The Village shall provide the funds so specified to the Class Claims Administrator within 30 days thereafter. In no event shall the Village be required to provide funds in excess of the amount provided in Paragraph 8.0.

14.4 Class Claims Administrator to Issue Checks to Settlement Class. The Settlement Class Members' checks shall be mailed by the Class Claims Administrator within 21 days after receipt of funding by the Village in the amounts provided in Paragraphs 10.0 through 10.4. In the event that the value of the claims submitted exceed the maximum amount provided in Paragraph 8.0,

then the Class Claims Administrator shall issue check reflecting reduction to the pro rata share required by Paragraph 12.0.

14.5 Checks shall be mailed by the Class Administrator to the Settlement Class Members at the addresses provided on their Claim Forms. Class Claims Administrator shall attempt to mail out any returned checks that provide forwarding address information or otherwise have an ascertainable address. The Class Claims Administrator shall otherwise have no obligation to research or locate the current address of any Settlement Class Member.

14.6 Checks Void After 90 Days. Checks issued to Settlement Class Members shall be void ninety (90) days after the date of issuance. Funds associated with any such voided checks shall be returned to the Village within thirty (30) days of the date that the check become void.

15.0 Releases. Plaintiff, the Class Members, and the Village grant the following releases:

15.1 Release by Omar Jaber. In consideration of the amount specified in Paragraph 9.0, the receipt and sufficiency of which is hereby acknowledged, Omar Jaber hereby fully releases, forever discharges, and remise the Released Parties including Village of Tinley Park, as well as its past, present and future employees, elected officials, agents, heirs, executors, administrators, insurers, officers, members, directors, of and from any and all past, present and future actions, claims, demands, setoffs, debts, sums of money, accounts, compensatory and punitive damages, attorneys' fees, financial obligations, actions, causes of

action, suits at law or in equity, judgments, costs, expenses and compensation, of any nature whatsoever, including without limiting the generality of the foregoing, any and all claims, which arose or could have arisen from or relate to the facts alleged or claims made in the Lawsuit, whether known or unknown, including without limitation, those claims asserted in the Lawsuit.

15.2 Release by Class Members. Each member of the Class who does not opt out of this Settlement Agreement, hereby releases and discharges the Released Parties from any and all causes of action, suits, claims or demands, in law or in equity, known or unknown at this time, which each member of the Class now has, did have, or may have in the future against the Released Parties, or any of them, arising from the provision of water using a Severn Trent Water Meter to record usage. Without limiting the generality of the foregoing, each member of the Class who has not opted out releases the Released Parties of all claims that were made or that could have been made in this Lawsuit.

15.3 Release of Jaber by Village. In exchange for the dismissal of this lawsuit, Village of Tinley Park agrees to, and hereby releases and discharges Omar Jaber of any and all claims it had against him related solely to the allegations contained in this Lawsuit.

15.4 Agreement is Complete Defense. This Agreement may be pleaded as a full and complete defense to any action, suit, or other proceeding that may be instituted or prosecuted with respect to the claims released herein.

16.0 Subject to Approval by the Board of Trustees for the Village. The Parties agree that all terms contained in this Agreement are subject to approval of the Board of Trustees for the Village, and shall not be effective until approved by the Village Board of Trustees. The Village will exercise its best efforts to approve and execute this Agreement within 21 days of the date of the Preliminary Approval Order.

17.0 Agreement Contingent Upon Final Approval by Court. If this Agreement is not approved by the Court in whole, or for any reason including but not limited reversal or material alteration on appeal, does not become effective in its current form, it shall be deemed null and void, and shall be without prejudice to the rights of the Parties hereto, and may not be used against any Party in any this or any other litigation or subsequent proceeding in any manner whatsoever, and the Parties shall be deemed to be in the same position as existed prior to the execution of this Agreement with the same *status quo ante* as existed prior to the execution of this Agreement.

18.0 Attorneys' Fees and Costs. The Parties agree that Plaintiffs' Counsel may petition the Court for an award of attorneys' fees and costs in an amount not to exceed \$265,000. The Parties expressly agree that under no circumstance with the Village be responsible for paying in excess of \$265,000 to the Plaintiffs' Counsel for their combined attorneys' fees and costs incurred in this suit. This amount shall be paid to Class Counsel within 21 days of the Effective Date of this Agreement, as specified in Paragraph 6.0.

19.0 Notice. Within fourteen (14) days of the Court's entry of the Preliminary Approval Order, the Class Administrator shall cause the Notice to be sent by postcard via U.S. regular mail to the Settlement Class members. In addition to the mailed Notice,

within fourteen (14) days of the notice date, the Village shall also publish one notice in the Chicago Tribune. In addition, notice of the Settlement shall be published online on the Village's website, as well as a website concerning this Class Action Settlement that will be created and hosted by the Class Claims Administrator, beginning at least 21 days from the date of the Preliminary Approval Order. All costs of Class Notice shall be borne by the Village.

19.1. Notice Mailing. Except as otherwise provided in this Agreement, there will be one Notice by postcard to the Settlement Class members ("Notice Mailing"). The Notice Mailing shall inform the class members that they will have thirty-five (35) days from the date of the Notice Mailing to opt-out or object to the settlement or Agreement. If the Notice Mailing is returned as undeliverable, the Class Administrator shall immediately attempt to locate a current address of that Settlement Class member, by searching the internet, or using other databases available to the Class Administrator. If that search locates a current address different than the one known to Defendant, the Class Administrator shall send a second mailing to such Settlement Class member.

19.2 Retention of documents. The Class Claims Administrator shall initially be responsible for retaining all records and documents generated during the administration of this Class Action Settlement Agreement – including records of notice, records of undelivered mail, claim forms, and payments to Settlement Class Members for a period of at least one year following an order dismissing the

Lawsuit with prejudice, and the expiration of all deadlines for appeal from such order.

20.0 Claim Forms. A Claim Form shall be timely if it is received by any of the following within 35 days of the date of Notice Mailing the final publication provided in Paragraph 19.1 or as otherwise set by the Court: either (a) Class Administrator (via paper or electronic submission), (b) Class Counsel, or (c) the Village of Tinley Park. The Class Administrator shall have 21 days after that date to reject any untimely or invalid claims. If the Class Administrator determines that a claim is untimely or invalid, it shall send the Claim Form to counsel for the Class and counsel for Defendant. If Class Counsel and counsel for the Defendant disagree as to the validity of any claim, Class Counsel will bring the disputed claim before the Court.

21.0 Court Submission. Class Counsel shall submit this Agreement and the Exhibits hereto, along with such other supporting papers as may be appropriate to the Court for preliminary approval of this Agreement. If the Court declines to: (1) grant preliminary approval of this Agreement and/or the terms of the settlement, or (2) grant final approval to the settlement terms of this Agreement, this Agreement shall terminate as soon as the Court enters an order unconditionally and finally adjudicating that this Agreement and settlement will not be approved.

22.0 Right to Rescind. Any party shall have the right, but not the obligation to set aside or rescind this Agreement if there is/are substantive modification(s) to this Agreement made by the Court or any other court that are not approved or requested by the Parties. The right to rescind shall be exercised, if at all, no later than fourteen (14)

days before the date of the Final Fairness Hearing. Notice to rescind the Agreement must be filed with the Court and served on all counsel of record.

23.0 Preliminary Approval. As soon as practicable after execution of this Agreement, the Parties shall make application to the Court to approve the Preliminary Approval Order, which:

- a. Preliminarily approves this Agreement;
- b. Appoints Larry D. Drury, Ltd., and the Alexander Law Firm as Class Counsel;
- c. Schedules a hearing for final approval of this Agreement;
- d. Approves Class Notice (The form of Notice is attached as Exhibit B).
- e. Finds that the Notice Plan described herein is the only notice required and that such notice satisfies the requirements of due process and 735 ILCS 5/2-803; and
- f. Sets deadlines to submit claims, opt out, and objections to the Agreement.

The Parties request that the Court enter an “Order Preliminarily Approving Class Action Settlement and Approving Class Notice” in a form substantially similar to the one attached hereto as Exhibit A. The Parties also request that the Court approve a “Notice of Class Action and Proposed Settlement” in the form attached hereto as Exhibit B, and request that the Court permit the Parties to provide notice as specified in Paragraphs 19.0 and 19.1.

24.0 Final Approval. At the conclusion of, or as soon as practicable after, the close of the hearing on the fairness, reasonableness, and adequacy of this Agreement, and after

the deadline for the submission of claim forms, requests for exclusion and objections expires, Plaintiff and Class Counsel shall request the Court enter a Final Order approving the terms of this Agreement as fair, reasonable, and adequate, providing the implementation of those terms and provisions, and finding that the notice given to the Settlement Class satisfies the requirements of due process and 735 ILCS 5/2-803. A dismissal order will be entered at a Final Approval Hearing substantially in the form attached hereto as Exhibit C.

25.0 Opt Outs. Any Class Member may elect to be excluded from the Settlement by opting out of the Settlement Class. The opt out deadline shall be 35 days from the date of Notice Mailing or as otherwise set by the Court. Class Members who wish to exclude themselves from the Settlement Class must send a written request for exclusion to Class Counsel and Counsel for Defendant at the addresses set forth in the Class Notice. The request must be received by Class Counsel or Class Administrator on or before the opt out deadline. Any Class Member who opts out shall neither be bound by the Settlement nor entitled to any benefits of the Settlement. An opt out notice must contain the following information: (a) the Class Member's name (which must be the same as the primary account holder on record with the Village), (b) the account number for the Village's water service, (c) the Class Member's signature or signature of its representative if a business (such as the business's officer or manager). A request to opt out that does not include all of the foregoing information, or that is sent to an address other than those listed in the Class Notice, or that is not received on time shall be invalid, and the persons or entities serving such a request shall be members of the

Settlement Class and shall be bound as Settlement Class Members by the Settlement, if approved.

26.0 Objections. Any Class Member may object to the Settlement and may appear in person or through counsel, at his, her, or its own expense, at the final approval hearing to present evidence and argument that may be relevant as determined by the Court. The deadline to object shall be 35 days from the date of Notice Mailing as otherwise set by the Court. Class Members who object may file with the Clerk of the Court and mail to Class Counsel and Counsel for Defendant at the addresses specified in the Class Notice, a written objection that includes: (a) the Objector's name, address, and telephone number, (b) the account number for the Class Member, (c) a statement of the objection to the Settlement, and (d) documentation, if any, to support the objection.

27.0 Dismissal of the Lawsuit with Prejudice. At the Final Accounting Hearing, the Court shall enter an order which dismisses the lawsuit with prejudice.

28.0 Review by Attorney. The Parties to this Agreement agree that they have read and understand this Agreement, and that this Agreement has been reviewed by their respective attorneys. The Parties to this Agreement agree and understand that no promises or representations other than those that appear in this Agreement have been made to them by the other party or by any attorney representing the other party.

29.0 Entire Agreement. This Agreement constitutes the entire agreement between the Parties to the Agreement, and there are no other covenants, agreements, promises, terms, provisions, conditions, undertakings or understandings, either oral or written, between them.

30.0 Headings. The headings, captions, numbering system, etc. are inserted only as a matter of convenience and may under no circumstances be considered in interpreting the provisions of the Agreement.

31.0 Counterparts. This Agreement may be executed in any number of counterparts, each of which will for all purposes be deemed to be an original and all of which are identical.

32.0 Applicable Law, Place of Performance. This Agreement shall be construed under and in accordance with the laws of the State of Illinois. All obligations contained in this Agreement are to be performed in Cook County, State of Illinois. Suit to enforce this Agreement must be filed in either Cook County Illinois or in the Northern District of Illinois.

33.0 Construction of this Agreement. Terms contained herein shall not be construed against a party merely because that party or its attorney is or was the principal drafter. It is understood and agreed that should any provision, portion, or term of this Agreement be declared unlawful, null, void or against public policy or illegal, such declaration or determination shall have no effect upon the enforceability of the remaining provisions, portions, or terms of this Agreement and that this Agreement shall remain in full force and effect.

34.0 Modification of Agreement. This Agreement may not be changed, modified or assigned except by written agreement of the Parties.

32.0 Applicable Law, Place of Performance. This Agreement shall be construed under and in accordance with the laws of the State of Illinois. All obligations contained in this Agreement are to be performed in Cook County, State of Illinois. Suit to enforce this Agreement must be filed in either Cook County Illinois or in the Northern District of Illinois.

33.0 Construction of this Agreement. Terms contained herein shall not be construed against a party merely because that party or its attorney is or was the principal drafter. It is understood and agreed that should any provision, portion, or term of this Agreement be declared unlawful, null, void or against public policy or illegal, such declaration or determination shall have no effect upon the enforceability of the remaining provisions, portions, or terms of this Agreement and that this Agreement shall remain in full force and effect.

34.0 Modification of Agreement. This Agreement may not be changed, modified or assigned except by written agreement of the Parties.

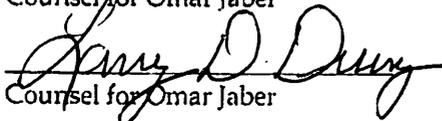
AGREED:


Omar Jaber, individually and
on behalf of a class

8-21-19
Date


Counsel for Omar Jaber

8-22-19
Date


Counsel for Omar Jaber

8-22-19
Date

David Niemeyer

David Niemeyer
Village Manager

9-4-19

Date

Village of Tinley Park

/s/ Brandon K. Lemley
Counsel for Village of Tinley Park

8/23/19

Date

/s/ Dominick Lanzito
Counsel for Village of Tinley Park

8/23/19

Date

EXHIBIT A

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

OMAR JABER, on behalf of himself and all others)
similarly situated,)

Plaintiff,)

vs.)

No. 15 CH 12754

THE VILLAGE OF TINLEY PARK, a)
municipal corporation,)

Defendant.)

**ORDER PRELIMINARILY APPROVING CLASS ACTION SETTLEMENT AND
CERTIFYING SETTLEMENT CLASSES**

This matter coming before the Court on Plaintiff's Motion for Preliminary Approval of Class Action Settlement Agreement and Permission to Send Notice to the Class (the "Motion"), after review and consideration of the Settlement Agreement, and having been fully advised in the premises, IT IS HEREBY ORDERED and adjudged as follows:

1. The settlement of this action, as embodied in the terms of the Settlement Agreement attached to the Motion, is hereby preliminarily approved as a fair, reasonable, and adequate settlement in the best interests of the Settlement Class in light of the factual, legal, practical, and procedural considerations raised by this case. The Settlement Agreement is incorporated by reference into this Order (with capitalized terms as set forth in the Settlement Agreement) and is hereby

preliminarily adopted as an Order of this Court.

2. For the purpose of settlement, the Court hereby certifies the following Settlement Class:

All current and former account-holders (based on the Village's records concerning who is the holder of the account) for residential and commercial accounts of the Village of Tinley Park water system, who paid for water based on the readings taken by a Severn Trent Water Meter installed on the property, for readings taken between January 1, 2010 until the date of the Preliminary Approval Order.

3. The Court finds that certification, for purposes of settlement, is appropriate in that (a) the Settlement Class is so numerous that joinder of all members is impractical; (b) there are questions of law and fact common to the Settlement Class that predominate over any questions affecting only individual class members; (c) Plaintiff's claims are typical of the claims of the Settlement Class; (d) Plaintiff and his attorneys have fairly and adequately protected the interests of the Settlement Class; and (e) a class action is the superior means of resolving this controversy.

4. The Court appoints Omar Jaber as the representative of the Settlement Class; and Larry D. Drury, Ltd. and John H. Alexander & Associates as Class Counsel.

5. The Court finds that the Settlement Agreement's plan for class notice ("Class Notice") is the best notice practicable under the circumstances and satisfies the requirements of due process. The Court further finds that such notice satisfies Illinois law and no other notice is necessary. The Class Notice is approved and

adopted.

6. The Class Notice shall be sent pursuant to the terms of the Settlement Agreement. The parties shall provide that notice to the Settlement Class as proposed.

7. The following shall be the deadlines and dates for the acts and events set forth in the Settlement Agreement and the Parties are directed to incorporate such deadlines and dates in the Class Notice:

- A. Any claims submitted by Class Members shall be received by Class Administrator in paper or electronic format, or delivered to the Village of Tinley Park's Village Hall in paper format only, on or before _____, or be forever barred;
- B. Any objections or motions to intervene shall be filed in this action and postmarked and served on counsel for the Clerk and designated Class Counsel on or before _____, or be forever barred;
- C. Any pleadings regarding objections or motions to intervene shall be filed in this action, and postmarked and served on counsel for the Defendant and designated Class Counsel on or before _____, or be forever barred;
- D. Requests by any class member to opt out of the settlement must be received by the Claims Administrator, counsel for the Defendant and designated Class Counsel for the Plaintiff on or before _____, or be forever barred. The Court will rule on all

requests for exclusion or opt outs as part of the Final Approval Hearing;
and

E. The Final Approval Hearing is set on _____, 20____ at _____
in Room _____.

BY ORDER OF THE COURT

Judge Anna M. Loftus

Date:_____

EXHIBIT B

NOTICE OF CLASS ACTION SETTLEMENT

IF YOU PURCHASED WATER FROM THE VILLAGE OF TINLEY PARK BETWEEN JANUARY 1, 2010 UNTIL SEPTEMBER 18, 2019, YOU MAY BE PART OF A CLASS ACTION SETTLEMENT.

WHO IS INCLUDED IN THIS SETTLEMENT? The settlement includes a “Class” or group of people called “Class Members” that consist of all current and former account-holders (based on the Village’s records concerning who is the holder of the account) for residential and commercial accounts of the Village of Tinley Park water system, who paid for water based on the readings taken by a Severn Trent Water Meter installed on the property, for readings taken between January 1, 2010 until September 18, 2019.

WHAT IS THE LAWSUIT ABOUT? Mr. Omar Jaber sued the Village of Tinley Park alleging that some Severn Trent water meters the Village installed to measure the flow of water engaged in “spinning,” resulting in meters recording more water than actually flowed through them such that customers paid for more water than was used. The Village of Tinley Park denies these claims, but to avoid the continued expense of litigation, has agreed to a settlement of the case.

WHAT DOES THE SETTLEMENT PROVIDE? In exchange for a release of all claims, the Village of Tinley Park has agreed to pay a maximum amount to Class Members of \$425,000 as follows: 1. A Class Member that was billed based on a Severn Trent Water Meter reading in excess of 35,000 gallons during one quarterly billing cycle is entitled to up to \$10.00; 2. A Class Member that was billed based on a Severn Trent Water Meter reading in excess of 35,000 gallons during two quarterly billing cycles is entitled to up to \$15.00; 3. A Class Member that was billed based on a Severn Trent Water Meter reading in excess of 35,000 gallons during three or more quarterly billing cycles is entitled to up to \$20; and 4. A Class Member whose Severn Trent Water Meter did not record a quarterly billing cycle in excess of 35,000 gallons is entitled to up to \$3. In addition to these payments, the Village of Tinley Park has agreed to pay the costs of this publication, the costs of class administration, the reasonable attorneys’ fees and costs of the attorney representing the Plaintiff and the Class, and an additional amount to the named plaintiff for his services as the class representative.

YOU HAVE FOUR CHOICES: (1) Submit a Claim Form: To receive a payment you must complete and submit a claim form such that it is received by _____. Claim forms may be submitted online at www._____.com, or may be dropped off at Village Hall, 16250 S. Oak Park Avenue, Tinley Park. Claim Forms are also available on the Tinley Park’s website, www._____.gov, at Village Hall, by calling 312-_____, or by writing to _____. (2) Do Nothing. If you do nothing, you will not receive any payment. You will be bound by the Court’s judgment and you will release your claims against the Village of Tinley Park. (3) Exclude Yourself. If you do not want to receive the Settlement benefits, be bound by the Court’s judgment, or release your claims against the Village of Tinley Park, then you must exclude yourself by _____ [date]. (4) Object. You can object to the proposed Settlement by _____. To do so, you must file a written objection, together with any supporting papers or briefs, and a statement of whether you or your attorney intend to appear at the Final Approval Hearing. Your written objection must also include your name and address, a

sentence confirming that you are a Class Member and the specific reasons why you object to the Settlement.

FINAL APPROVAL HEARING. Judge Anna Loftus will hold a Final Approval Hearing in this case (*Omar Jaber v. Village of Tinley Park*, Case No. 15-CH-12754 on _____ in Courtroom 2410 of the Cook County Circuit Court, 50 West Washington Street, Chicago, IL 60602 to decide whether to: finally approve this settlement; Class Counsels' request for attorneys' fees and costs in the amount of \$265,000 for their work on behalf of the Class; and a service award of \$5,000 to Omar Jaber for his services on behalf of the Class.

MORE INFORMATION. Additional information, including the Settlement Agreement, Claim Forms, and other Court documents may be found on the Village of Tinley Park's websites ([www._____](#)), on the settlement website ([www._____](#)). If you have additional questions as to how to submit a claim, you may call (*Phone number for administrator*). You may also email Class Counsel, Larry D. Drury at ldd@larrydrury.com if you have settlement questions.

EXHIBIT C

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

OMAR JABER, on behalf of himself and all others)
similarly situated,)

Plaintiff,)

vs.)

No. 15 CH 12754

THE VILLAGE OF TINLEY PARK, a)
municipal corporation,)

Defendant.)

FINAL APPROVAL ORDER, JUDGMENT, AND ORDER OF DISMISSAL

THIS MATTER coming to be heard on the parties' Joint Motion for Final Approval of Class Action Settlement (the "Motion") pursuant to the Order Preliminarily Approving Settlement and Providing for Notice dated_____, 20___, due notice having been given to the members of the Settlement Classes (the "Class Members") as required in the Preliminary Approval Order, and the Court having considered all papers filed and proceedings had herein and otherwise being fully informed in the premises and good cause appearing therefore;

IT IS HEREBY ORDERED:

1. This Final Approval Order, Judgment and Order of Dismissal (the "Judgment") incorporates by reference the definitions in the Settlement Agreement (attached hereto as Exhibit A), and, unless otherwise defined herein, all such terms used in this Judgment shall have the same meanings as set forth in the Settlement Agreement.

2. This Court has jurisdiction over the subject matter of the Litigation and over all parties to the Litigation, including all Class Members.

3. Due and adequate notice of the proceedings and settlement having been provided to the Class Members, and a full opportunity having been afforded to them to participate in the final/fairness hearing of the settlement, it is determined that the Class Members are bound by this Judgment.

4. This Court dismisses this lawsuit on the merits with prejudice.

5. Pursuant to Sections 801 and 802 of the Illinois Code of Civil Procedure, 735 ILCS 5/2-801, *et seq.*, the Court has certified the Settlement Class as defined in the Settlement Agreement.

6. With respect to the Settlement Class, this Court finds and concludes, for purposes of this settlement only, that: (a) the members of the Settlement Class are so numerous that joinder of all Class Members is impracticable; (b) there are questions of law and fact common to the Settlement Class which predominate over any individual questions; (c) the claims of the Plaintiff are typical of the claims of the Settlement Class; (d) Plaintiff and his counsel have fairly and adequately represented and protected the interests of all of the Class Members; and (e) a class action is superior to other methods for the fair and efficient adjudication of this lawsuit.

7. The Court finds that the settlement is, in all respects, fair, reasonable, and adequate as to each of the members of the Settlement Class and therefore this settlement and the terms of the Settlement Agreement are approved.

8. The Court awards: i) a \$5,000.00 incentive payment to Plaintiff; and (ii) a total payment of \$265,000.00 for Attorneys' Fees/Expenses to: Larry D. Drury, Ltd., and John H. Alexander & Associates which payments shall be paid pursuant to the terms of the Settlement Agreement. The Court finds that these fees, costs and litigation expenses are fair, reasonable, and appropriate, and taking into account the circumstances and history of this case, including the result achieved, the risk of litigation, the skill required and the quality of work, and the contingent nature of the fee. No other fees or expenses may be awarded to in connection with this Lawsuit. These payments satisfy any and all obligations of Defendant regarding any claim for attorneys' fees, expenses, costs, and/or incentive awards.

9. Upon the Effective Date, each of the Class Members shall be deemed to have, and by operation of this Judgment shall have, fully, finally, and forever released, relinquished, and discharged all claims against Defendant and its respective current and former public officials, officers, directors, employees, predecessors, successors, assigns, agents and attorneys from the claims and defenses solely alleged in the Lawsuit.

10. Upon the Effective Date, the Class Members are hereby individually and severally permanently barred and enjoined from instituting, commencing, prosecuting, participating in, or continuing any action or other proceeding in any court or tribunal of this or any other jurisdiction, either directly, representatively, or in any other capacity, against any of the Released Parties or asserting any claims that are alleged in the Lawsuit.

11. The Notice given to the Class Members was the best notice practicable under these circumstances. The Notice fully satisfied the requirements of Illinois law, the Illinois Code of Civil Procedure, and the requirements of due process.

12. The Settlement Agreement, the settlement and any act performed, or document executed pursuant to or in furtherance of the settlement shall not be deemed an admission any of the parties. Defendant may file this Judgment in any action that may be brought against any of the Defendant as support of a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good-faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim.

13. The Court retains continuing jurisdiction over: (i) the implementation of the settlement and the terms of the Settlement Agreement; and (ii) Plaintiff and Defendant for the purpose of construing, enforcing, and administering the settlement, the terms of Settlement Agreement and the payments ordered in this Judgment.

IT IS HEREBY ORDERED

Entered:

Judge Anna M. Loftus

Date: _____