

IN THE COURT OF COMMON PLEAS
OF LACKAWANNA COUNTY, PENNSYLVANIA

ADAM R. GUIFFRIDA
*Individually and on behalf
of all others similarly situated,*

Plaintiff,

v.

THE CITY OF SCRANTON, PENNSYLVANIA

Defendant.

No.2016-CV-6933

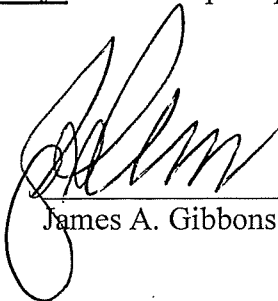
CLASS ACTION

MAURIE B. KELLY
LACKAWANNA COUNTY
2019 MAR 12 P 12:47
CLERK OF JUDICIAL
REC'D CIVIL DIVISION

**ORDER APPROVING FORM OF NOTICE AND SETTING SCHEDULE FOR
DISSEMINATION, OPT-IN AND REPORTING TO COURT**

AND NOW this 12th day of March, 2019, having held a Notice Conference on May 25,
2018, with the parties and considered the arguments, the Court hereby approves the attached
form of Notice. Plaintiff shall disseminate the Notice on the following schedule:

- Plaintiff shall disseminate the Notice **within 45 days** of this Order;
- The time for Class Members to opt-in by returning the Participation Agreement ends **90 days** from the date the Notice is disseminated; and
- Plaintiff shall file the list of those Class Members who opted-in **30 days** after the opt-in period ends.



_____, J.
James A. Gibbons

NOTICE OF PENDENCY OF CLASS ACTION

**YOU HAVE RECEIVED THIS NOTICE BECAUSE YOU ARE A CURRENT OR
FORMER RESIDENT OF THE CITY OF SCRANTON
WHO PAID A REFUSE FEE BETWEEN JANUARY 1, 2014
AND THE PRESENT**

**A CLASS ACTION IS PENDING THAT MAY AFFECT YOUR LEGAL RIGHTS
PLEASE READ THIS NOTICE CAREFULLY**

- A legal action (the “Class Action”) has been brought against the City of Scranton (“City”) in the Court of Common Pleas of Lackawanna County (the “Court”) concerning the City’s residential refuse fee which the law mandates is to be used to reimburse the City’s Operating Fund for costs incurred directly for the disposal of refuse.
- Plaintiff alleges that the City has violated the law by collecting refuse fees well in excess of the amount required to fund the refuse disposal program; the City did not segregate the refuse funds into a special interest-bearing account; and the City used the refuse funds for the City’s general welfare, unrelated to refuse collection, between 2014 - Present.
- In an Order dated January 2, 2018 (the “Order”), the Court permitted the Class Action to proceed on behalf of all residential property owners who paid the refuse fee between January 1, 2014 - present.
- As a result of the Order, you have to choose to either: (a) participate in the class action by filling out the attached **PARTICIPATION AGREEMENT** and returning it either via email or regular mail *or* (b) do nothing if you do not want to participate in the Class Action *or* (c) pursue your own claim for a refund either with or without the assistance of your own personal lawyer. You can obtain more information as well as Court documents by visiting www.CityofScrantonrefuseclassaction.com or by calling 1-877-XXX-XXXX.

**PLEASE READ THIS NOTICE CAREFULLY AS IT
DESCRIBES THE OPTIONS AVAILABLE TO YOU AND
THE CONSEQUENCES OF THE OPTION YOU PURSUE**

1. Background Of The Action

Plaintiff, Adam Guiffrida, is a resident of the City of Scranton who has paid the City’s annual refuse fee governed by the City’s Refuse Ordinance. Plaintiff has also been assessed penalties and interest for delinquent refuse fees. On December 15, 2016, Plaintiff filed a Class Action Complaint seeking a declaration from the Court that the City was in violation of the Refuse Ordinance because it had collected monies in excess of the “costs incurred directly for the disposal of refuse”; failed to maintain the refuse fees in a special interest-bearing account; and used the refuse funds for the general welfare of the City.

Plaintiff claims that he, as well as all other similarly situated residents, should be entitled to a proportional refund of the difference between the actual cost the City incurred for the disposal of refuse and the amount the City collected each year from January 1, 2014 to the present.

The City disputes Plaintiff's claim and asserts that the fee is commensurate with the actual costs incurred directly for the disposal of refuse.

The Court is yet to decide who is right.

2. The Class Certification Ruling

A class action is a type of lawsuit in which one or several individuals prosecute claims on behalf of all members of a group of similarly-situated persons to obtain Court ordered relief for the benefit of the entire group. Class actions avoid the necessity of each member of a class having to file his or her own separate lawsuit to obtain relief. Class actions are used to decide legal and factual issues that are common to all members of a class.

The Court has permitted this case to proceed as a class action on behalf of all residential property owners who paid the City's refuse fee between January 1, 2014 and the present.

You can obtain a copy of the Court's Order and Opinion by visiting: www.CityofScrantonrefuseclassaction.com

3. What Are Your Options?

Because of the Order, you have three options:

A. REQUEST TO PARTICIPATE IN THE CLASS ACTION: You can request to participate in the lawsuit and be represented by Plaintiff and Class Counsel. To do so, you must fill out the attached **PARTICIPATION AGREEMENT** to be a party to the lawsuit. You must complete and return the **AGREEMENT** by no later than **12/31/2019**.

B. DO NOTHING. If you do not want to participate in the Class Action or wish to file your own claim either individually or with your own lawyer representing you, there is no need to complete and return the **PARTICIPATION AGREEMENT** form.

4. What Are The Consequences Of The Option You Pursue?

These are the consequences of the option you pursue.

A. THE CONSEQUENCES OF PARTICIPATING IN THE CLASS:

(i.) PLAINTIFF AND CLASS COUNSEL WILL REPRESENT YOUR INTERESTS: Your interests will be represented by Plaintiff and Class Counsel. This means that if a settlement is reached or Plaintiff is successful at trial, you will be assisted by Class Counsel on an individual basis in seeking a refund from the City for any excess refuse fees collected.

(ii.) YOU WILL BE BOUND BY A JUDGMENT: If you elect to participate, you **WILL BE** bound by whatever favorable or unfavorable judgment is entered in the Class Action. This means that if Plaintiff is not successful in the Class Action, **YOU WILL BE FOREVER BARRED FROM ASSERTING ANY CLAIM AGAINST THE CITY RELATING TO THE REFUSE FEE.**

(iii.) COSTS AND ATTORNEYS' FEES: If you elect to have Plaintiff and Class Counsel represent your interests, Class Counsel will be entitled to recover their attorneys' fees and costs for prosecuting the lawsuit. Class Counsel will seek up to 25% of the refuse fee refunds obtained for reimbursement for their costs and time spent for both obtaining the right to each individual refund as well as actually obtaining the each individual refund. This is because Class Counsel is representing Class members on a contingent basis, which means their compensation depends on successfully obtaining a refund for each person that elects to participate.

HOW TO PARTICIPATE: If you wish to participate in the Class, please complete the **PARTICIPATION AGREEMENT**. The **AGREEMENT** must be postmarked and/or emailed on or before [] for the request to be valid. It can be returned via mail or email to the following:

THE CITY OF SCRANTON REFUSE CLASS ACTION
120 Gibraltar Road, Ste. 218
Horsham, PA 19044

EMAIL: REFUSEFEESCLASSACTION@SMBB.COM

B. THE CONSEQUENCES OF DOING NOTHING

(i.) YOU WILL NOT BE BOUND BY A JUDGMENT: If you do not elect to participate in the Class, you will **NOT** be bound by any judgment rendered in the Action, favorable or unfavorable. In addition, you can decide to not assert any claim relating to the refuse fees, or you can bring your own claim based on any other theory either as an individual or through another lawyer.

(ii.) ATTORNEYS' FEES AND EXPENSES: If you decide to bring your own claim relating to refuse fees and retain your own attorney, you **WILL BE** responsible for costs and attorneys' fees. If you have any questions about costs and attorneys' fees that may be owed by bringing your own claim, you should consult with an attorney.

5. Who Are The Attorneys For The Class?

There are three law firms representing Plaintiff and the Class. Their contact information is as follows:

PATRICK HOWARD
SALTZ, MONGELUZZI, BARRETT
& BENDESKY, P.C.
1650 Market Street, 52nd Floor
Philadelphia, PA 19103
Phone: (215) 496-8282
E-mail: phoward@smbb.com

PAUL G. BATYKO III
BATYKO LAW
7 Sharon Drive
Moosic, PA 18507
(570) 510-2503 (phone)
pbatyko@batykolaw.com (email)

JOSEPH T. HEALEY
BURNS WHITE
575 Pierce Street, Suite 202
Kingston, PA 18704
jthealey@burnswhite.com

If you have any questions regarding your rights as a Class member or the consequences of the option you wish to pursue, you may contact Class Counsel without charge. You can also obtain more information by visiting www.CityofScrantonrefuseclassaction.com or by calling 1-877-XXX-XXXX.

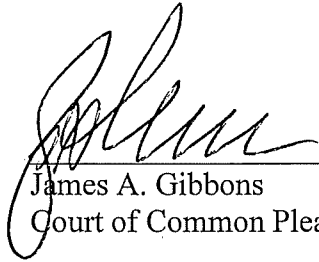
Alternatively, you are free to represent yourself or retain your own attorney to represent you in the Action at your own expense.

6. Defendant Does Not Admit Liability

This Notice is not an admission by or an expression of any opinion of the Court concerning the merits of the Class Action, or a finding by the Court that the claim asserted by Plaintiff is valid. This Notice is intended solely to advise you of the Action and of your rights in connection with it. There is no settlement or monetary recovery at this time. Defendants have denied Plaintiff's claim and contend they are not liable.

PLEASE DO NOT CONTACT THE COURT

Dated: *March 12*, 2019

 _____, J.
James A. Gibbons
Court of Common Pleas of Lackawanna County

AGREEMENT TO PARTICIPATE IN REFUSE FEE CLASS ACTION

Guifrida v. City of Scranton

Case No. 2016-cv-6933

I, _____, am (was) a resident of the City of Scranton who between January 1, 2014, and the present, paid the City's annual refuse fee. I have read the Notice of Pendency of Class Action, and elect to participate in the lawsuit. I understand that by doing so, I will be represented by the Plaintiff's lawyers. I further understand that if the Plaintiff is successful, the Plaintiff's lawyers will assist me in obtaining an individual refund from the City for any overpayment of the refuse fee. In exchange for their assistance, the Plaintiff's lawyers will request up to 25% of all the refunds they obtain to cover their costs and attorneys' fees.

My contact information is as follows:

Name: _____

Current Address: _____

Phone: _____

Email address: _____

Dated: _____

Signature

RETURN TO EITHER OF THE FOLLOWING BY NO LATER THAN _____

**THE CITY OF SCRANTON REFUSE CLASS ACTION
120 Gibraltar Road, Ste. 218
Horsham, PA 19044**

EMAIL: REFUSEFEESCLASSACTION@SMBB.COM