

**IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI**

DARRICK REED, on behalf of himself and
all others similarly situated,

Plaintiff,

vs.

CITY OF FERGUSON,

Defendant.

Case No. _____

Div. _____

JURY TRIAL DEMANDED

Serve: City Clerk
110 Church Street
Ferguson, Mo. 63135

CLASS ACTION PETITION

COMES NOW Plaintiff DARRICK REED, on behalf of himself and all others similarly situated, by and through undersigned counsel, and for his Class Action Petition against the City of FERGUSON (“Defendant”) states as follows:

1. Defendant, in violation of Section 488.005, RSMo (Cum. Supp. 2013) and the law of Missouri, has charged an unauthorized fee of \$50 for each warrant issued and later recalled through its municipal court (“warrant fee” or “fee”).

PARTIES

2. This action is brought by Plaintiff on behalf of himself and a proposed class (“Class”).
3. Plaintiff Darrick Reef was assessed the fee on or about January 2009 in the amount of \$50.
4. Plaintiff and Class reside in the State of Missouri and are Missouri citizens.
5. Plaintiff and Class paid the unlawful \$50 warrant fee.
6. Defendant City of Ferguson is a municipal corporation within St. Louis County operating under the laws of the State of Missouri.

JURISDICTION

7. This court has jurisdiction over Defendant because it was formed under the laws of the State of Missouri and is located within St. Louis County, Missouri.
8. Plaintiff and Class are all Missouri citizens, many of whom reside in St. Louis County.

GENERAL ALLEGATIONS

9. Defendant collects warrant fees from Plaintiff and Class.
10. The fees are assessed in order to recall a warrant.
11. Failure to pay the fees results in the warrant remaining active.
12. The warrant fee is charged in addition to any fines and other fees, including failure to appear fees, fines related to the underlying charges, and court costs.
13. A warrant fee is not authorized by Missouri law. It is illegal.
14. The warrant fee is not a tax nor is it related to actual costs incurred; rather it is charged by Defendant as a means of profiting from the issuance of traffic tickets and other violations.
15. The warrant fee is not designed to promote health, safety, peace, comfort, or general welfare of the public.
16. Instead, the warrant fee is charged and collected by Defendant in its corporate capacity and constitutes a proprietary function.
17. The fee is charged in order to obtain a specific service by the City – a recall of the warrant.
18. In reality, the warrant fee creates significant problems for Plaintiff and Class, including causing unnecessary and illegal financial duress. Similarly, assessing the fee is detrimental to the community as a whole, as it increases incarceration rates, reduces faith in the court

system, creates distrust by citizens of the court, and results in financial harm to the community.

19. Plaintiff and Class who paid the fee did so under the threat of loss of their procedural rights to be heard, additional fees, and threat of incarceration.
20. Plaintiff and Class paid the fee involuntarily and under duress.
21. Plaintiff and Class paid the warrant fee without the knowledge that the fee was invented to create profit. Plaintiff and Class lacked actual knowledge of the factual reasons for the fee – including a desire to create profit – as well as information about the fee’s misuse.

CLASS ACTION ALLEGATIONS

22. This case is brought and can be properly maintained pursuant to Missouri Rule of Civil Procedure 52.08.
23. The putative classes are defined as:
 - a. All Missouri citizens who paid a warrant fee to Defendant.
 - b. All Missouri citizens who were assessed a warrant fee and now owe the fee.
24. The Class is believed to comprise thousands of Missouri Citizens, the joinder of whom is impracticable. The members of the Class are so numerous that it is impractical to bring all of them before the Court in this action.
25. Plaintiff bring this action on behalf of themselves and the Class against Defendants to recover the amount of the fees paid and to obtain injunctive relief for those class members who have not paid the fee.
26. Excluded from the defined Class is the judge to whom this case is assigned, Defendant, Defendant’s elected officials and representatives, and all those who validly and timely opt-out of the certified Class.

27. The amount of damages suffered individually by Plaintiff and Class is so small as to make an individual suit for its recovery economically impracticable and/or unfeasible.
28. Class treatment of the claims asserted herein will provide substantial benefit to both the parties and the court system. A well-defined commonality of interest in the question of law and fact involved affects Plaintiff and the proposed Class.
29. There are common questions of law and fact applicable to the claims asserted on behalf of the Class. The common questions include, but are not limited to:
- a. Whether the warrant fee charged by Defendant was in violation of state law;
 - b. Whether the warrant fee was instituted to create profit for Defendant;
 - c. Whether Defendant knew the fee was illegal at the time it was charging it;
 - d. The amount collected in warrant fees;
 - e. The policies for enforcing the warrant fee;
 - f. The purpose of the warrant fee;
 - g. Whether an injunction prohibiting future collection and assessment of the fee is appropriate;
 - h. Whether any defenses asserted by Defendant are appropriate;
 - i. Whether punitive damages are appropriate;
 - j. Whether attorneys' fees should be awarded.
30. The claims of Plaintiff are typical of the claims of the Class. Plaintiff asserts no individual claims and her claims are identical to those of the class. There are no unique defenses.
31. Plaintiff will fairly and adequately represent and protect the interests of the proposed Class. Plaintiff does not have any interest antagonistic to those of the Class, understands the duties

owed to the class, and is prepared to fulfill them. Plaintiff has retained competent and experienced counsel in the prosecution of this type of litigation.

32. Defendants have acted or refused to act on grounds that apply generally to the Class as discussed herein, such that final injunctive relief or corresponding declaratory relief is appropriate for the Class.
33. The questions of law and fact common to the members of the Class overwhelmingly predominate over any questions affecting only individual members of the Class.
34. Damages can be calculated from records that the Defendant possesses and do not require individual inquiry.
35. A class action is superior to other available methods for the fair and efficient adjudication of this controversy because members of the Class number in the thousands and individual joinder is impracticable. The expenses and burden of individual litigation would make it impracticable or impossible for proposed members of the Class to prosecute their claims individually. Trial of these claims is manageable.
36. Unless a class is certified, Defendant will retain monies received as a result of its unlawful conduct and scheme to collect monies from Plaintiff and Class. Unless a class-wide injunction is issued, Defendant will continue to violate Missouri law resulting in harm to Missouri citizens.
37. For these reasons, this case is maintainable as a class action pursuant to Missouri Rule of Civil Procedure 52.08.

COUNT I: DECLARATORY JUDGMENT

38. Plaintiff and Class re-allege and incorporate by reference all paragraphs from all other counts of this Petition as if fully set forth herein. This claim is brought for both classes – those who paid and those who are alleged to owe the fee.
39. An actual and genuine justifiable controversy exists - between Defendant on one hand and Plaintiff and class on the other - concerning the legality of the warrant fee, the rights of Plaintiff and Class, and the legality of Defendant’s conduct. This conduct resulted, or will imminently result, in depriving Plaintiff and Class of their property, rights, and liberties.
40. The warrant fee at issue is prohibited by state law. The practice of charging it conflicts with state law that specifically enumerates the proper fees to be charged by municipal courts.
41. Further, charging a fee in order to profit the municipality in its role as a corporation is illegal.
42. Pursuant to Section 527.010, RSMo and Missouri Rule of Civil Procedure 87, Plaintiff and Class request a declaration of rights concerning
- a. Whether the warrant fee is in violation of state law (Section 488.005 et seq.); and
 - b. Whether Plaintiff and Class are entitled to recover the payments made; and
 - c. Whether any person alleged to owe the warrant fee should be relieved of that obligation.

WHEREFORE, Plaintiff and Class pray for the relief requested in the Request for Relief set forth at the end of this Petition.

COUNT II: UNJUST ENRICHMENT AGAINST DEFENDANT

43. Plaintiff and Class re-allege and incorporate by reference all paragraphs from all other parts of this Petition as if fully set forth herein. This Count is brought for the class of people who paid the warrant fee.

44. For the reasons set forth in this Petition, the fee was in violation of state law and more specifically Section 488.005 RSMo et seq. and laws prohibiting municipalities from acting in their own interest, and against the interest of their citizens. The warrant fee at issue is prohibited by state law.
45. Defendant knew or had reason to know that the warrant fee was contrary to state law.
46. As such it is unlawful, inequitable, and unjust for Defendant to collect and retain fees, or otherwise subject Plaintiff and Class to further legal action including arrest and imprisonment.
47. Plaintiff and Class conferred a benefit upon Defendant by making payments pursuant to these unlawful surcharges.
48. Defendant has accepted and retained monies paid by Plaintiff and Class pursuant to these unlawful surcharges.
49. Defendant has acknowledged receipt of the unjust benefit conferred by Plaintiff and Class by receiving the payment of the fees.
50. Because the fee was unlawful, it would be unjust for Defendant to retain any benefit in the form of fines paid by Plaintiff and Class or to obtain further monies from Plaintiff and Class.
51. Defendant possesses monies which rightfully belong to Plaintiff and Class because these monies were collected by means of unlawful fees, which in good conscience ought to be paid back to Plaintiff and Class.
52. Therefore, it is unjust, inequitable, and/or unconscionable for Defendant to retain monies paid by Plaintiff and Class.
53. As a result of Defendant's conduct, Defendant has been unjustly enriched at the expense of Plaintiff and Class in excess of \$25,000.

54. Plaintiff and Class claim all legal and equitable remedies, including restitution, which they are entitled by law to recover from Defendant for the injuries and losses set forth herein.

55. WHEREFORE, Plaintiff and Class pray for the relief requested in the Request for Relief set forth at the end of this Petition.

COUNT III: MONEY HAD AND RECEIVED

56. Plaintiff and Class re-allege and incorporate by reference all paragraphs from all other parts of this Petition as if fully set forth herein. This Count is brought for the class of people who paid the warrant fee.

57. Defendant had received monies which in equity and good conscience ought to be paid to Plaintiff and the Class.

58. The conduct of Defendant was malicious, corrupt, and intentional and/or reckless to a degree sufficient to support an award of punitive damages against Defendant.

59. WHEREFORE, Plaintiff and Class pray for the relief requested in the Request for Relief set forth at the end of this Petition.

COUNT IV: ACTION FOR AN ACCOUNTING AND REIMBURSEMENT OF COURT FEES PAID

60. Plaintiff re-alleges and incorporates by reference all paragraphs from all other parts of this Petition as if fully set forth herein. This Count is brought for the class of people who paid the warrant fee.

61. Plaintiff and Class paid the warrant fees and are entitled to a refund of those fees because that money was taken from Plaintiff through practices that are illegal and conflict with state law.

62. Plaintiff and Class bring this equitable action for an accounting and reimbursement of fines and court costs paid during the period when the unlawful and void Ordinances were in effect.

63. Plaintiff and Class seek the creation of a common fund out of which this Court can reimburse Plaintiff and Class.

WHEREFORE, Plaintiff and Class pray for the relief requested in the Request for Relief set forth at the end of this Petition.

COUNT V: NEGLIGENCE

64. Plaintiff and Class re-allege and incorporate by reference all paragraphs from all other parts of this Petition as if fully set forth herein. This Count is brought for the class of people who paid the warrant fee.

65. Defendant had a duty to collect only the municipal fees authorized by law.

66. Defendant had a duty not to collect fees for profit.

67. Defendant breached its duty by collecting the warrant fee.

68. Defendant knew or should have known through the exercise of reasonable care that collection of the warrant fee was illegal and that it would cause harm to Plaintiff and Class.

69. Defendant's collection of the warrant fee directly caused or contributed to cause harm to Plaintiff and Class, including by causing Plaintiff and Class to pay money they did not owe.

70. Defendant's collection of the warrant fee was carried out recklessly and with a total disregard for the harm that it would cause Plaintiff and Class.

71. Plaintiff and Class suffered damage, including payment of the warrant fee, as a result of Defendant's negligence.

WHEREFORE, Plaintiff and Class pray for the relief requested in the Request for Relief set forth at the end of this Petition.

COUNT VI: MERCHANDISING PRACTICES ACT VIOLATIONS

72. Plaintiff and Class re-allege and incorporate by reference all paragraphs preceding Count I in this petition. This count is brought for the class who paid the warrant fee.
73. Defendant is a municipal corporation incorporated under Missouri law.
74. Defendant is a corporate citizen who can, and in this case did, act in its corporate capacity.
75. The collection of the warrant fee was in order to produce profit for the municipal corporation.
76. Plaintiff and Class were required to pay the charge in order to obtain a specific service:
namely the recall of the warrant.
77. To this end, Defendant billed Plaintiff and Class for warrant fees.
78. Defendant issued a receipt for payment for the service.
79. Charging a price for a specific service constitutes a sale.
80. The charging of the warrant fee was unfair, deceptive, and misleading, in at least the following ways:
- d. The fee is prohibited by state law because it is not one of the municipal fees authorized under 488.005 RSMo et seq;
 - e. The fee is charged, not because of any actual cost or justification, but instead in order to produce profit for Defendant;
 - f. The fee is onerous, as it is charged in addition to every other fee, fine, and cost that is assessed;
 - g. The fee is misleading, as it suggests that it is related to warrants, when in reality, it is driven purely by a desire to produce additional profit;

- h. Defendant does not disclose that the fee generates far more revenue than is needed to operate the municipal court
- i. The fee is collected under duress, by design, as it is required in order to recall the warrant.

81. As a direct and proximate result of the charging of the warrant fee, Plaintiff and Class suffered ascertainable loss, including but not limited to the amount paid for the warrant fee.

82. Defendant's actions were made knowingly, intentionally, and with evil intent.

WHEREFORE, Plaintiff and Class pray for the relief requested in the Request for Relief set forth at the end of this Petition

REQUEST FOR RELIEF

WHEREFORE, Plaintiff and Class pray for the following relief:

- A. An order declaring the actions of the Defendant to be illegal and in violation of Missouri law;
- B. Preliminarily and permanently enjoining Defendant, its agents, all those under their control, and their successors in office from collecting fees in accordance with the unlawful surcharges or from taking any legal action against persons for failure to pay;
- C. Certifying the classes for purposes of this litigation;
- D. Appointing Campbell Law LLC, the Saint Louis University Law Clinic, and ArchCity Defenders as lead counsel;
- E. Awarding compensatory damages for the Plaintiff and Class in an amount that is fair just, and reasonable under the circumstances;
- F. Ordering disgorgement of the warrant fee;
- G. Ordering injunctive relief commanding Defendant not to collect and declare void any

- outstanding fees which were to be collected;
- H. Awarding Plaintiff the costs of this action;
 - I. Awarding punitive damages;
 - J. Awarding attorney's fees; and
 - K. Any such other and further relief as the Court deems fair and appropriate under the circumstances.

JURY TRIAL REQUESTED

Plaintiff hereby respectfully request a trial by jury.

Respectfully Submitted,

Saint Louis University Law Clinic

/s/ Brendan D. Roediger
Brendan D. Roediger #60585
John J. Ammann #34308
Stephen Hanlon #19340
Saint Louis University Legal Clinic
100 North Tucker, Suite 704
St. Louis, Mo. 63101-1911
314-977-2778
314-977-1180
broedige@slu.edu

ArchCity Defenders, Inc.

/s/ Michael-John Voss
Michael-John Voss #61742
John D. McAnnar #61636
Thomas Harvey #61734
ArchCity Defenders, Inc.
812 N. Collins Alley
Laclede's Landing
St. Louis, MO 63102
(855) 724-2489 (phone)
(314) 621-8071 (fax)
mjvoss@archcitydefenders.org

Campbell Law, LLC

/s/ John Campbell

John Campbell

Erich Vieth

Alicia Campbell

CAMPBELL LAW, LLC

1500 Washington Avenue, Suite 100

St. Louis, MO 63103

Office: 314.604-3454

Fax: 314.588.9188

john@campbelllawllc.com

erich@campbelllawllc.com

alicia@campbelllawllc.com