

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA**

ALANA CAIN, et al.,

Plaintiffs,

v.

CITY OF NEW ORLEANS, et al.,

Defendants.

Case No. 2:15-4479-SSV

(Class Action)

Judge Sarah S. Vance, Sec. R(2)

Mag. Judge Joseph C. Wilkinson, Div. 2

MOTION TO CERTIFY A CLASS

Plaintiffs, pursuant to Rules 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure and the Court's April 16, 2018 order setting a briefing schedule for motions regarding the remaining issues in this case (Rec. Doc. 293), move this Court for an order certifying this lawsuit as a class action for prospective relief. Named Plaintiffs propose to certify the following class, as more fully explained in the accompanying memorandum of law: All persons who currently owe or who will incur court debts arising from cases adjudicated in the Orleans Parish Criminal District Court.

Since Plaintiffs originally brought their motion to certify, Rec. Doc. 230, the parties have developed the factual record by stipulating to certain facts and conducting limited discovery, and the Court has held that Defendants' system-wide policies and practices of using jail and threats of jail to collect court debts from individuals violates the Due Process Clause of the United States Constitution both because of insufficient protections and findings concerning ability to pay and because of Defendants' financial conflict of interest in the outcome of the proceedings. The Court found it undisputed that Defendants did not make the necessary findings or provide the necessary procedural safeguards prior to jailing individuals who were indigent when they did not pay. Rec. Doc. 279 at 38. This Court also held that the Judges' control over the revenue from the collection

of court debts combined with their adjudicative role in ability-to-pay determinations violates due process. *Id.* at 68. These rulings on Defendants’ policies and practices apply equally to all Class Members, including the Named Plaintiffs.

Defendants attempted to moot this lawsuit by representing to the Court that they modified certain policies and practices. But as the Court observed, Plaintiffs still face the possibility of alleged constitutional injury if they fail to pay their court debts, and in any case, the “capable of repetition, yet evading review” exception applies because it is undisputed that a constant stream of class members is subjected to the same violations on an ongoing basis. *Rec. Doc. 279* at 38.

Having prevailed on the merits concerning these core issues, Plaintiffs seek to certify a class of similarly situated individuals, who, like Plaintiffs, owe outstanding court debts arising from cases in the Orleans Parish Criminal District Court. Plaintiffs easily meet the requirements for class actions under Federal Rule of Civil Procedure 23. Because the offending conduct is policy-driven and systemic, common issues of law and fact predominate. A class action is clearly the preferred method of adjudication, as individual litigation for thousands of proposed class members, most of whom are indigent, would be unfeasible and unworkable.

WHEREFORE, Plaintiffs respectfully request that this Court certify this suit as a class action for prospective relief as set forth above and in the accompanying memorandum of law and grant such other relief as the Court may deem appropriate.

Respectfully submitted,

/s/ Alec Karakatsanis

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CERTIFICATE OF SERVICE

I hereby certify that, on the 23rd day of April, 2018, I have electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, which will send a notice of electronic filing to the parties.

/s/ David P. Fuad