

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, ss.

SUPERIOR COURT
C.A. NO. 1785CV02005B

JANICE MAGLIACANE, on behalf of herself
and others similarly situated,

Plaintiff,

v.

CITY OF GARDNER,

Defendant/Third Party
Plaintiff,

v.

SUEZ WATER ENVIRONMENTAL
SERVICES, INC. (formerly known as
United Water Environmental Services, Inc.),

Third Party Defendant.

Handwritten signature and initials in black ink, located to the right of the case caption.

~~PROPOSED~~ PRELIMINARY APPROVAL ORDER

The Court having reviewed the Plaintiff's Motion for Preliminary Approval of the Settlement of this Action and the Stipulation and Agreement of Settlement dated July 2025 (the "Settlement Agreement") between Plaintiff Janice Magliacane, individually and on behalf of the Class ("Plaintiff"), Defendant City of Gardner (the "City" or "Defendant") and Third Party Defendant SUEZ Water Environmental Services, Inc., and good cause appearing therefor, IT IS HEREBY ORDERED AS FOLLOWS:

1. For purposes of this Order, the Court adopts all the defined terms that are used in the Settlement Agreement and incorporates those terms by reference in this Order.

2. The Court preliminarily approves the Settlement of this Action that is set forth in the Settlement Agreement. Subject to any further submissions that may be made at or prior to the Final Approval Hearing described below, the Court finds that the Settlement is fair, just, reasonable and adequate to the certified Class and its members.

3. This Court has previously certified a Class consisting of all Gardner residents, property owners and businesses who were supplied water by the City and whose copper heating coils in their tankless hot water heating systems failed and had to be replaced (the "Class").

4. The Court hereby approves the form of Notice attached hereto as Exhibit A and the form of Summary Notice attached hereto as Exhibit B. The Court finds that the Notice and the Summary Notice are reasonably and practicably calculated to apprise the Class of the proposed Settlement, and their rights and obligations thereunder, including, *inter alia*, their rights to submit claims, to object to the Settlement and to attend the Final Approval Hearing.

5. The Court approves the plan of notice and finds that the plan of mail, email, publication and internet notice described in paragraphs 12 through 17 of the Settlement Agreement is appropriate and is reasonably and practicably calculated to apprise the Class of the proposed Settlement, and their rights and obligations thereunder, including, *inter alia*, their rights to submit claims, to object to the Settlement and to attend the Final Approval Hearing.

6. Immediately following the entry of this Order, the parties will work together to include copies of the Summary Notice and Claim Form with the next set of water bills the City sends to all Gardner residents. Class Counsel will also e-mail or mail copies of the Summary Notice and Claim Form to any Class Members who have contacted Class Counsel. The Summary

Notice shall include a link to the Settlement Website, where Class Members will be able to access the full Notice and Claim Form.

7. The Settlement Administrator shall implement the plan of Notice in accordance with Paragraphs 12 through 17 of the Settlement Agreement, which also includes publication of the Summary Notice.

8. The Court finds that dissemination of the Notice and plan of Notice described above and in Paragraphs 12 through 17 of the Settlement Agreement constitutes the best notice practicable, and that it is reasonably calculated, under all the circumstances, to apprise Class members of the terms of the Settlement and afford them an opportunity to submit claims or present objections, or otherwise avail themselves of their rights under the Settlement.

9. The Court further finds that the plan of Notice meets the requirements of the Massachusetts Rules of Civil Procedure and the requirements of Due Process of the Constitutions of the United States and the Commonwealth of Massachusetts, as well as any other applicable law and that such Notice constitutes due and sufficient notice to all persons entitled thereto.

10. Not later than seven (7) days before the Final Approval Hearing described below, Class Counsel shall file an affidavit or declaration from the Settlement Administrator attesting to compliance with and completion of the plan of Notice set forth in the Settlement Agreement.

11. The Court hereby approves the Claim Form attached hereto as Exhibit C. To be valid, any Claim Form must be submitted to the Settlement Administrator in the manner provided in the Claim Form, and no later than sixty (60) days after the date of the Final Approval Hearing, subject to extension by the Court.

12. The Final Approval Hearing shall be held at 2:00 p.m. on January 13 2026, in Courtroom 19, Worcester Superior Court, 225 Main Street, Worcester, Massachusetts, to determine whether the proposed Settlement of the Action, as set forth in the Settlement Agreement, should be approved as fair, reasonable and adequate to the Class and its members, and whether the Final Order and Judgment approving the Settlement should be entered. At the Final Approval Hearing, the Court also will determine whether Class Counsel's Fee Application and request for a Service Award to the Plaintiffs should be approved. At that hearing the Court will also consider any timely objections to the Settlement Agreement, the Fee Application or the Service Award, and all responses to objections by the Parties.

13. No later than 45 days before the Final Approval Hearing, Plaintiff shall file with the Court and serve on Defense Counsel, her motion for final approval of the Settlement, Fee Application, and any supporting materials. The memorandum in support of the Settlement and the Fee Application shall also be posted on the Settlement Website.

14. Any Class member wishing to object to the approval of this Settlement Agreement, the Service Award or the Fee Application shall inform the Court and the Parties in writing of his or her objection by following the procedures and objection deadlines set forth in the Notice. Any Class member who fails to object to the Settlement, the Service Award or the Fee Application in the manner described in the Notice shall be deemed to have waived any such objection, shall not be permitted to object to any terms or approval of the Settlement, the Service Award or the Fee Application at the Fairness Hearing, and shall be foreclosed from seeking any review of the Settlement, the Service Award or Fee Application by appeal or other means. As set forth in the Notice, any and all objections must be submitted no later than 24 days prior to the

Final Approval Hearing and be sent to Class Counsel, Defense Counsel and the Court. Any Party may file a response to any objection no later than ten days prior to the Final Approval Hearing.

15. The Court hereby directs the Parties, Class Counsel and Defense Counsel to proceed in accordance with the terms of the Settlement Agreement, and hereby authorizes them to take all acts reasonably necessary to implement this Preliminary Approval Order.

16. The Court may, for good cause, change the date of the Final Approval hearing or extend any of the deadlines set forth in this Order without further notice to the Class members.

IT IS HEREBY ORDERED.

Dated: 9/23, 2025

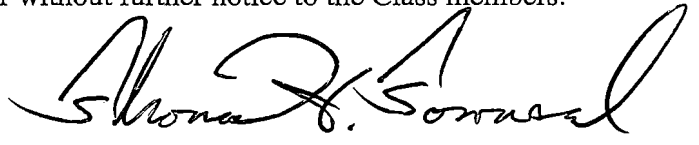

Justice of the Superior Court

Exhibit A

NOTICE OF CLASS ACTION SETTLEMENT

Janice Magliacane v. City of Gardner v. SUEZ Water Environmental Services, Inc.
Massachusetts Superior Court, Civil Action No. 1785-CV-02005B

PLEASE READ THIS CLASS CERTIFICATION NOTICE CAREFULLY. IT MAY AFFECT YOUR RIGHTS.

A \$325,000 Settlement has been reached in a certified class action lawsuit regarding the defendant City of Gardner (the “City”) and third party defendant SUEZ Water Environmental Services, Inc. (“SUEZ”), the City’s private water system operator. The class action concerns the City and SUEZ’s supply of water to Gardner residents, property owners and businesses, which water plaintiff Janice Magliacane alleges caused copper heating coils in tankless hot water heating systems in Gardner to fail.

Affected Gardner residents, property owners and businesses may be eligible to receive a cash payment upon the submission of a valid claim form by _____, __, 2025.

Your legal rights are affected whether you act or do not act. Please read this notice carefully.

Summary of Your Legal Rights and Options in This Settlement	
Submit a Claim	If you are a Class Member, to receive the cash benefit described in this notice, you must submit a claim form by mail (using the form attached to this notice) or online at _____.com by _____, __, 2025.
Object	Write to the Court and the lawyers for both sides if you object to the Settlement. The Court will consider your objection in determining whether to approve the Settlement.
Do Nothing	Remain in the Settlement and receive no benefits.

The rest of this notice provides further information about the Action, this Settlement, and your legal rights and options in connection with the Settlement. Capitalized terms in this notice are defined in the Stipulation and Agreement of Settlement, which is available on the Settlement Website.

Questions? Visit _____ .com

Why did I get this notice?

A Court authorized this notice because you may be part of the Class described below, in which case you have a right to know that the Class has been certified and to know about a proposed Settlement of this class action and about all of your options before the Court decides whether to give final approval to the Settlement. This Notice explains the lawsuit, the Settlement, and your legal rights.

The case is pending in Worcester Superior Court and is known as *Magliacane v. City of Gardner et al.*, Civ. Act. No. 1785-CV-02005B (the “Action”). The person who sued is Janice Magliacane. The defendant is the City of Gardner, and the third party defendant is SUEZ.

What is the case about?

Plaintiff brought this class action alleging claims against the City for negligence, gross negligence and nuisance relating to the supply of water to Gardner residents, property owners and businesses, which Plaintiff alleged caused copper heating coils in tankless hot water heating systems in Gardner to fail. The City denies any wrongdoing, however if there was an error the City alleges third party claims against its private water system operator SUEZ for breach of contract, indemnity and contribution. SUEZ denies any wrongdoing.

Am I a class member?

The court has allowed this case to proceed as a class action. The Class includes all Gardner residents, property owners and businesses who were supplied water by the City and whose copper heating coils in their tankless hot water heating systems failed and had to be replaced.

What are the terms of the Settlement?

Under the proposed Settlement, the City and SUEZ have agreed to pay \$325,000, collectively, to resolve this action (the “Settlement Amount”).

If the Settlement is approved, Class Members will be prevented from bringing any claims against the City or SUEZ (as well as each of their present, former, or future subsidiaries, parents, affiliates, successors, predecessors, insurers, insurance administrators, claims administrators, officers, directors, employees, elected officials, appointed officials, representatives, agents or principals) that were asserted, or which could have been asserted, in the Action by Plaintiff, including but not limited to claims for negligence, gross negligence or nuisance, relating to the supply of water to Gardner residents, property owners and businesses, which allegedly caused their Coils to fail.

How is the Settlement Amount being distributed?

The lawyers for the Class will ask the Court to award them attorneys’ fees of up to 33% of the Settlement Amount, plus expenses, from the Settlement Amount. Class Counsel will also ask the Court to award up to \$15,000 to the plaintiff who brought this lawsuit to compensate her for her efforts in the case, including responding to discovery requests and giving a deposition, to be paid out of the Settlement Amount. Class Counsel will also ask the Court to allow the costs of providing notice and administering the Settlement to be paid out of the Settlement Amount.

The remaining amount available to be paid to the Class Members (the “Net Settlement Amount”) will be distributed to Class Members who mail or submit online a completed valid claim form by

_____, 2025. Each Class Member who submits a valid, timely Claim Form will be entitled to receive their *pro rata* share of the Net Settlement Amount, which will be divided among Class Members who have submitted valid, timely Claim Forms based on the number of Coils they replaced up to a maximum of 3 coils.

To illustrate, by way of example only, assuming the Net Settlement Amount was \$180,000, if there were 1,000 claimed coil replacements, class members would receive \$180 per coil replacement (up to a maximum of three coil replacements, or \$540). If there are fewer claimed coil replacements, the amount per coil will be higher. If there are more claimed coil replacements, the amount per coil will be lower.

No later than thirty (30) days after the entry of the Preliminary Approval Order, Class Counsel shall give notice to the Massachusetts IOLTA Committee pursuant to Mass. R. Civ. P. 23(e)(3), for the limited purpose of allowing the committee to be heard on whether it ought to be a recipient of any or all residual funds.

How can I get my share of the Class Recovery?

If the Settlement is approved by the Court, and you complete and submit a valid, timely Claim Form, your *pro rata* share of the Net Settlement Amount, if any, will be sent by check to your most recent mailing address. If you have a more current address, please notify the Settlement Administrator.

If you are a Class Member and want to receive the cash benefit described in this Settlement, you **MUST** submit a claim form, either by mailing a completed, signed claim form attached to this notice, or by submitting a claim form online at _____ .com.

What if I do not want to be part of the Class?

Under Massachusetts law, class members do not have the right to exclude themselves from the Class. So, if you are a Gardner resident, property owner or and business who was supplied water by the City and whose copper heating coils in your tankless hot water heating systems failed and had to be replaced, you are and will remain part of the Class.

Who represents the Class in this case?

Plaintiff Janice Magliacane and the Class have been represented throughout this case by the Boston law firm of Shapiro Haber & Urmey LLP ("Class Counsel").

How will the lawyers be paid?

Since this case was filed more than seven years ago, Class Counsel has not received any payment for any of their legal services they have provided or any reimbursement of any of the out-of-pocket expenses they have incurred in the case. Class Counsel plan to ask the Court to award them attorneys' fees of up to 33% of the Settlement Amount, plus expenses, from the Settlement Amount.

Will the Court review the fairness of the Settlement and Class Counsel's fee request?

Yes, the Court will hold a Final Approval Hearing on _____, _____ at _____:_____.m. in Courtroom _____, Worcester Superior Court, 225 Main Street, Worcester, MA 01608. The Court may reschedule the hearing without further notice. At the hearing, the Court will consider whether: (a) the Settlement is fair, reasonable and adequate; (b) the Court should approve

payment of a service award of up to \$15,000 to Plaintiff Janice Magliacane from the Settlement Amount; and (c) the Court should approve Class Counsel' request for attorneys' fees and expenses of up to 33% of the Settlement Amount, plus expenses, from the Settlement Amount.

What should I do if I object to the Settlement?

If you are a Class Member, you may object to any aspect of the Settlement, including the applications for a Service Award to Plaintiff Janice Magliacane and the award of attorneys' fees and expenses to Class Counsel. In order to object, you must, on or before _____, __, ____:

- Submit a written notice to the Worcester Superior Court, 225 Main Street, Worcester, MA 01608, which contains: (a) the case name and number, (b) your name, address and telephone number, (c) a statement setting out your objections and the basis for them, along with any documentation you intend to rely on at the Final Approval Hearing, (d) a statement of whether you intend to appear at the Final Approval Hearing, and (e) a statement indicating the number of times in the past three years you and/or your counsel have objected to a class action settlement, listing each one by name of case, jurisdiction, docket number and outcome of the objection.
- Send copies of all of these materials by first-class mail to counsel at:

Class Counsel

Michelle Blauner
Shapiro, Haber & Urmey LLP
One Boston Place – 26th Floor
Boston, MA 02108

Counsel for the City

Jason Crotty
Pierce Davis & Perritano LLP
10 Post Office Square
Suite 1100N
Boston, MA 02109

Counsel for SUEZ

Christopher Howe
Campbell, Conroy & O'Neil, P.C.
20 City Square
Suite 300
Boston, MA 02129

How can a Class Member get more information?

This Notice is a summary and does not describe all the details of the Settlement. You are encouraged to read the Settlement Agreement, the Preliminary Approval Order, and other documents. You may obtain a copy of these documents online at _____.com, or you

may obtain further information regarding the Settlement by calling the Settlement Administrator toll-free at _____, or by emailing questions to the Settlement Administrator at _____ .com.

You may also contact Class Counsel with any questions by mail at Shapiro Haber & Urmy LLP, One Boston Place, Boston, MA 02108, by toll-free telephone at 1- 888-233-1782 or by email at shu@shulaw.com.

PLEASE DO NOT CALL OR WRITE THE COURT FOR INFORMATION OR LEGAL ADVICE.

DATED: _____, 2025

Exhibit B

EXHIBIT B

NOTICE OF CLASS ACTION SETTLEMENT

Janice Magliacane v. City of Gardner v. SUEZ Water Environmental Services, Inc.
Massachusetts Superior Court, Civil Action No. 1785-CV-02005B

A \$325,000 Settlement has been reached in a certified class action lawsuit against defendant City of Gardner (the "City") and third party defendant SUEZ Water Environmental Services, Inc. ("SUEZ"), the City's private water system operator. The class action concerns the City and SUEZ's supply of water to Gardner residents, property owners and businesses, which water plaintiff Janice Magliacane alleges caused copper heating coils in tankless hot water heating systems in Gardner to fail. The City and SUEZ deny any wrongdoing.

Affected Gardner residents, property owners and businesses may be eligible to receive a cash payment upon the submission of a valid claim form by _____, __, ____.

What does the Settlement provide? The settlement creates a fund of \$325,000. Each Class Member who files a valid and timely claim form will be eligible to receive a cash payment. A Claim Form is enclosed with this Notice, and is also available at _____.com. The City and SUEZ deny any wrongdoing.

Am I a Class Member? You are a class member if you are a Gardner resident, property owner and or business who was supplied water by the City and who had copper heating coils in a tankless hot water heating system fail and have to be replaced.

How is the Settlement Amount being distributed? The lawyers for the Class will ask the Court to award them attorneys' fees of up to 33% of the Settlement Amount, plus expenses, as well as to award the plaintiff who brought this lawsuit up to \$15,000 for her efforts in this case, from the Settlement Amount. Class Counsel will also ask the Court to allow the costs of providing notice and administering the Settlement to be paid out of the Settlement Amount.

The remaining amount available to be paid to the Class Members (the "Net Settlement Amount") will be distributed to Class Members who mail or submit online a completed valid claim form by _____, _____. Each Class Member who submits a valid, timely Claim Form will be entitled to receive their *pro rata* share of the Net Settlement Amount, which will be divided among Class Members who have submitted valid, timely Claim Forms based on the number of Coils they replaced up to a maximum of 3 coils. No later than thirty (30) days after the entry of the Preliminary Approval Order, Class Counsel shall give notice to the Massachusetts IOLTA Committee pursuant to Mass. R. Civ. P. 23(e)(3), for the limited purpose of allowing the committee to be heard on whether it ought to be a recipient of any or all residual funds.

What are my options? To receive payment, you must mail or submit online a completed claim form by _____, _____. You may object to the settlement by _____, _____. The specific details for filing an objection are in the detailed notice available at _____.com. The Court will hold a hearing on _____, _____ to consider the settlement and class counsel's request for an award of attorneys' fees of up to 33% of the settlement amount, plus expenses, as well as a service award for the plaintiff of up to \$15,000. You do not have to attend this hearing.

Your legal rights are affected whether you act or do not act. If you think you may be a Class Member, please go to _____,com to read the full notice concerning this settlement.

DATED: _____, 2025

Exhibit C

CITY OF GARDNER COILS CLAIM FORM

You can also file online at: _____ .com

You must complete the required information below. All claim forms must be postmarked or submitted online by _____, _____. If mailing, please return this form to:

City of Gardner Coils Class Action Settlement Administrator
[ADDRESS]

Class Member Information

Name:

Telephone:

Current Address

Number/Street:

City:

State:

Zip Code:

Address Where Coils Replaced (If Different from Current Address)

Number/Street:

City:

State:

Zip Code:

Information regarding Coil Replacements

If you are a Gardner resident, property owner or businesses who was supplied water by the City of Gardner and whose copper heating coils in your tankless hot water heating systems failed and had to be replaced, you may receive a *pro rata* share of the Net Settlement Amount as defined in the Stipulation and Agreement of Settlement (available at _____ .com), which will be divided equally among Class Members who have submitted valid and timely Claim Forms based on the number of Coils they replaced up to a maximum of 3 coils. These settlement benefits are subject to adjustment upward or downward depending upon the volume of legitimate claims submitted.

All claims are subject to verification, and you may be asked to provide additional information or documentation to substantiate your claim.

Please indicate the number of copper heating coils in your tankless hot water heating systems that failed and had to be replaced: _____

I confirm that the above statements are true and accurate to the best of my knowledge.

Signature _____

Date _____

CLAIM FORMS MUST BE POSTMARKED OR SUBMITTED ONLINE BY _____
QUESTIONS? VISIT _____ .COM

SHAPIRO HABER & URMY LLP

Attorneys at Law

Edward F. Haber
Michelle H. Blauner
Ian J. McLoughlin
Patrick J. Valley

Ian J. McLoughlin
imcloughlin@shulaw.com

Emilie Castro-Schwarz (admitted in NY only)

September 19, 2025

Counsel

Thomas V. Urmey, Jr. (ret.)
Thomas G. Shapiro (ret.)

VIA eFiling

The Honorable Thomas Townsend
Worcester County Superior Court
225 Main Street
Worcester, MA 01608

Re: *Magliacane v. City of Gardner et al.*, C.A. No. 1785CV02005B

Your Honor,

Further to yesterday's hearing on Plaintiff's Assented-to Motion for Preliminary Approval of Class Action Settlement (filed July 31, 2025), enclosed please find a new proposed Preliminary Approval Order. The new proposed Order reflects a change to page 3 of the Notice attached to the proposed Order as Exhibit A, and the same change to the Summary Notice attached as Exhibit B, as discussed at the hearing. Plaintiff, with the assent of the other parties, requests that the Court enter the proposed Preliminary Approval Order for the reasons set forth in her motion papers, and asks that the Court schedule a Final Approval hearing to take place at least 120 days from the date of the Preliminary Approval Order.

The parties are available to discuss at the Court's convenience if the Court has any further questions.

Sincerely,

/s/ Ian J. McLoughlin

Ian J. McLoughlin

cc: Jason Crotty, Esq. (by email)
Christopher Howe, Esq. (by email)