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**MONTANA THIRTEENTH JUDICIAL DISTRICT COURT
YELLOWSTONE COUNTY**

<p>JEREMY CHAPMAN, KAILEY FERGUSON, EDWARD JOHNSTON, NANCY THORSON and GARY ZACCAGNINI, on behalf of themselves and all others similarly situated,</p> <p><i>Plaintiffs,</i></p> <p>v.</p> <p>CITY OF BILLINGS PUBLIC WORKS, a political subdivision of the STATE OF MONTANA and DOES 1-10,</p> <p><i>Defendants.</i></p>	<p>Cause No: <u>DV-56-2026-0000206-BC</u></p> <p>Ed Zink</p> <p>CLASS COMPLAINT AND DEMAND FOR JURY TRIAL</p>
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Plaintiffs Jeremy Chapman, Kailey Ferguson, Edward Johnston, Nancy
Thorson and Gary Zaccagnini (collectively “Plaintiffs”), on behalf of themselves and
others similarly situated, for their Complaint against Defendants, state the following:

I. PARTIES, JURISDICTION, AND VENUE

1. Plaintiff Jeremy Chapman is a citizen and resident of Yellowstone County.
2. Plaintiff Kailey Ferguson is a citizen and resident of Yellowstone County.
3. Plaintiff Edward Johnston was a citizen and resident of Yellowstone County.
4. Plaintiff Nancy Thorson is a citizen and resident of Yellowstone County.
5. Plaintiff Gary Zaacagnini is a citizen and resident of Yellowstone County.
6. Defendant City of Billings Public Works, is a political subdivision of the State of Montana, who oversees and maintains the water system infrastructure in Yellowstone County.
7. Defendant Does 1-10 are unknown and still unidentified individuals and/or entities that may be wholly or partially liable and/or responsible for Plaintiffs' claims.
8. This Court has jurisdiction under Montana Rule of Civil Procedure 4, and venue in Yellowstone is proper under Mont. Code Ann. § 25-2-126(3).

II. GENERAL ALLEGATIONS

ALLEGATIONS COMMON TO ALL COUNTS

9. Upon information and belief, Defendant City of Billings Public Works (hereinafter “Defendant”) executed a system conversion of their invoicing program in the summer of 2024 for invoicing city water that it provides to its consumers in Yellowstone County.

10. According to the United States Environmental Protection Agency’s website, the average American uses around 82 gallons of water per day per person in a household.

11. According to the United States Environmental Protection Agency’s website, an average American family of four uses between 320-400 gallons of water per day, meaning an average family of four uses around 10,000 gallons of water, or 1,000 kilogallons of water in a 30 day period. Approximately 30% of the water usage is devoted to outdoor uses.

12. Prior to the Defendant’s new invoicing system, Plaintiffs’ water consumption was either at the normal national average water consumption or below the normal national average water consumption.

13. After Defendants’ system conversion for their invoice program, countless Yellowstone County residents, including Plaintiffs, received invoices reflecting drastic increases in their water consumption and their bills were grossly

inflated.

14. Defendant refused to acknowledge the possibility of system errors despite thousands of simultaneous requests to review bills from Plaintiffs and other Yellowstone County residents. (<https://www.billingsmtpublicworks.gov/304/July-2024-Utility-Billing-System-Converts> (last accessed February 6, 2026)).

15. Defendant hired a firm to conduct an “audit” which failed to review the homes of Plaintiffs and does not state whether it reviewed any of the homes of actual complainants.

16. Rather, the audit reviewed less than 30 meters and failed to explain how residents were sometimes charged for more water than they could use in a month.

17. The audit, done in January of 2025, merely states the “billing is accurate at this time” and does not address the clear historical inaccuracies.

18. The audit faults Defendant for inappropriate operating procedures, inadequate staffing, a rushed conversion process and states that bills did not have enough information on them to ensure all charges were correct.

19. Defendant had various excuses for illogically high or impossible bills such as there was a leak, the sprinkler system must have been running nonstop, the sprinkler system was leaking and someone was stealing water.

20. These excuses were easily disproven.

21. Despite the excuses being false, Defendant continued to pursue

collection of disputed charges from Plaintiffs and other Yellowstone County residents despite knowledge of its inaccurate billing.

22. Though it had knowledge of the inflated billing, Defendant threatened sending Plaintiffs' and other Yellowstone County residents' accounts to collections and threatened to shut off water to Plaintiffs' and other Yellowstone County residents' homes.

23. On February 2, 2025, Defendant began shutting off residents' water who had not paid their illogically high or impossible water bills.

24. Defendant pursued water billing debts against people it served when it knew or should have known that such debts were not owed.

UNDERLYING FACTS

JEREMY CHAPMAN

25. Plaintiff Jeremy Chapman resides at 2953 West Copper Ridge Loop in Billings, Montana.

26. From December 2023 through June 2024, Plaintiff Chapman's water usage in kilogallon units was between 1 and 7 Kgal per month and the amount billed by Defendant was between \$40.96 to \$62.89 a month.

27. Plaintiff Chapman received an invoice from Defendant in August 2024, reflecting that Plaintiff Chapman used 73 Kgal units of water during a period of 60 days. Plaintiff Chapman was billed \$501.94

28. Plaintiff Chapman received an invoice from Defendant in October 2024, reflecting that Plaintiff Chapman used 78 Kgal units of water in a period of 31 days. Plaintiff Chapman was billed \$593.75

29. Plaintiff Chapman received an invoice from Defendant in November 2024, reflecting that Plaintiff Chapman used 35 Kgal units of water for a period of 32 days. Plaintiff Chapman was billed \$241.82

30. From December 2024 through January 2025, Plaintiff Chapman's water usage was 1 Kgal unit per month and he was billed between \$40.87 and \$47.67 a month.

31. Plaintiff Chapman contacted Defendant about the erroneous billing, and he was told that either there was a water leak in his home or he excessively used his sprinklers. Plaintiff Chapman's home was inspected for leaks and no leaks were found and had minimal sprinkler usage at the time as he does not have a manicured lawn.

32. Plaintiff Chapman did not pay Defendant for the water bill that was erroneously calculated.

33. Plaintiff Chapman requested his water statements from the Defendant in October 2025 in an attempt to work collaboratively with the Defendant to resolve the billing dispute. Defendant did not send Plaintiff Chapman his water statements until February 1, 2026, despite multiple requests.

34. Defendant shut off Plaintiff Chapman's water on February 2, 2026.

35. **Plaintiff Chapman was damaged by Defendant's action by the loss of use of water at his home, the ongoing debt, and frustration, anger and worry associated with these actions.**

KAILEY FERGUSON

36. In the summer of 2024, Plaintiff Kailey Ferguson rented a home located at 1611 8th Avenue North in Billings, Montana.

37. From May 21, 2024 through August 5, 2024, Plaintiff Ferguson used approximately 10 Kgal units of water during a period of 76 days. Plaintiff Ferguson was billed \$240.80.

38. Plaintiff Ferguson received an invoice from Defendant in October 2024, reflecting that Plaintiff Ferguson used 245 Kgal units of water during a period of 31 days. Plaintiff Ferguson was billed \$2,509.79.

39. Plaintiff Ferguson received an invoice from Defendant in November 2024, reflecting that Plaintiff Ferguson used 150 Kgal units of water during a period of 32 days. Plaintiff Ferguson was billed \$1,414.62

40. Plaintiff Ferguson received an invoice from Defendant in December 2025, reflecting that Plaintiff Ferguson used 245 Kgal units of water during a period of 60 days. Plaintiff Ferguson was billed \$2,180.55. Plaintiff Ferguson's account was adjusted by \$490.50, making a total owed of \$1,690.05.

41. Plaintiff Ferguson received an invoice from Defendant in January 2025, reflecting that Plaintiff Ferguson used 143 Kgal units of water during a period of 32 days. Plaintiff Ferguson was billed \$1,335.46.

42. Plaintiff Ferguson contacted Defendant about the erroneous billing and she was told by Defendant that her home likely had a water leak. An inspection revealed no leaks were present. The Defendant acknowledged the physical impossibility of the billed amount of water running through Plaintiff Ferguson's water pipes each month but it still insisted on payment.

43. Plaintiff Ferguson could not afford the water bills and she was forced to move out of her rental. Plaintiff Ferguson did not pay Defendant for the water bill that was erroneously calculated.

44. **Plaintiff Ferguson was damaged by Defendant's action by having to move homes, ongoing debt, and frustration, anger and worry associated with Defendant's actions.**

EDWARD JOHNSTON

45. Plaintiff Edward Johnston owns a home located at 6253 Ironwood Drive in Billings, Montana. Plaintiff Johnston moved out of the state in April 2023. He periodically stayed in his Billings home, no more than once every few months. During the summer of 2024, Plaintiff Johnston and his wife only stayed at their Billings home for approximately four days. The house was not rented and no one

resided at the home.

46. From November 2023 through May 2024, Plaintiff Johnston's water usage in kilogallon units was between 0.748 and 1.496 Kgal per month and the amount billed by Defendant was \$40.96 - \$57.11 a month.

47. Plaintiff Johnston received an invoice from Defendant in September 2024, reflecting that Plaintiff Johnston used 146 Kgal units of water during a period of 90 days. Plaintiff Johnston was billed \$972.72.

48. Plaintiff Johnston received an invoice from Defendant in October 2024, reflecting that Plaintiff Johnston used 346 Kgal units of water in a period of 31 days. Plaintiff Johnston was billed \$3,640.91. During this period of time, no one was residing in Plaintiff Johnston's home – the home was vacant.

49. Plaintiff Johnston received an invoice from Defendant in November 2024, reflecting that Plaintiff Johnston used 43 Kgal units of water in a period of 32 days. Plaintiff Johnston was billed \$302.38. Plaintiff Johnston's home was vacant during this period of time.

50. From December 2024 through June 2025, Defendant's invoicing reflected that Plaintiff Johnston did not have any water usage.

51. Plaintiff Johnston contacted Defendant about the erroneous billing and he was told by the Defendant that he left his sprinklers on all night every night.

52. Johnston's neighbors have confirmed that this is false. His sprinklers

were not running all night every night.

53. Plaintiff Johnston paid Defendant for the water bills that were erroneously calculated, to avoid water shut off.

54. **Plaintiff Johnston was damaged by Defendant's action by having to pay the erroneous bills, wrongful fees, and frustration, anger and worry associated with Defendant's actions.**

NANCY THORSON

55. Plaintiff Nancy Thorson resides at 3333 38th Street West in Billings Montana.

56. Upon information and belief, from November 2023 through July 2024, Plaintiff Thorson's water usage in kilogallon units was 1 to 5 Kgal per month and the amount billed by Defendant was between \$13.62 and \$33.10 a month.

57. Plaintiff Thorson received an invoice from Defendant in August 2024, reflecting that she used 107 Kgal of water for a period of 31 days. Plaintiff Thorson was billed \$874.84.

58. Upon information and belief, Plaintiff Thorson received an invoice from Defendant in September 2025, reflecting that Plaintiff Thorson used 24 Kgal of water for a period of 30 days. Plaintiff Thorson was billed \$138.83.

59. Upon information and belief, from October 2025 through December 2025, Plaintiff Thorson's water usage in kilogallon units was between 3 to 7 Kgal per

month and the amount billed by Defendant was between \$18.49 to \$42.84 a month.

60. Plaintiff Thorson contacted Defendant about the erroneous billing. Defendant inspected Plaintiff Thorson's property and opined that there was a leak in her underground sprinklers.

61. Plaintiff Thorson does not have underground sprinklers.

62. Plaintiff Thorson paid Defendant for the water bills that were erroneously calculated.

63. Plaintiff Thorson was damaged by Defendant's action by having to pay the erroneous bills, wrongful fees, and frustration, anger and worry associated with Defendant's actions.

GARY ZACCAGNINI

64. Plaintiff Gary Zaccagnini owns a residence at 1422 Lynn Avenue in Billings, Montana.

65. Upon information and belief, from February 2024 through June 2024, Plaintiff Zaccagnini received invoices from Defendant stating that his water usage in kilogallon units was between 13.46 and 22 Kgal per month and the amount billed by Defendant was between \$105.74 and \$319.77 a month.

66. Upon information and belief, Plaintiff Zaccagnini received an invoice from Defendant in August 2024, reflecting that Plaintiff Zaccagnini used 104 Kgal of water during a period of 60 days. Plaintiff Zaccagnini was billed \$506.05.

67. Upon information and belief, Plaintiff Zaccagnini received an invoice from Defendant in October 2024, reflecting that Plaintiff Zaccagnini used 91 Kgal of water during a period of 31 days. Plaintiff Zaccagnini was billed \$447.03.

68. Upon information and belief, Plaintiff Zaccagnini received an invoice from Defendant in November 2024, reflecting that Plaintiff Zaccagnini used 120 Kgal of water during a period of 32 days. Plaintiff Zaccagnini was billed \$585.65.

69. Upon information and belief, Plaintiff Zaccagnini was double billed by Defendant in December 2024. One invoice reflected that Plaintiff Zaccagnini used 108 Kgal of water for 31 days and the other invoice reflected Plaintiff Zaccagnini used 43 Kgal of water for 29 days. Plaintiff Zaccagnini was billed \$528.29 and \$217.59.

70. Upon information and belief, from January 2025 through June 2025, Plaintiff Zaccagnini's water usage in kilogallon units was between 20 to 28 Kgal per month and the amount billed by Defendant was between \$107.65 and \$145.89 a month.

71. Plaintiff Zaccagnini contacted Defendant about the erroneous billing and he was told by the Defendant that there was likely a water leak in his home. No leak was found in Plaintiff Zaccagnini's home.

72. Plaintiff Zaccagnini was damaged by Defendant's action by having to pay the erroneous bills, wrongful fees, and frustration, anger and worry

associated with Defendant's actions.

CLASS ACTION ALLEGATIONS

73. All allegations asserted in this Complaint are incorporated herein by reference.

74. Pursuant to Montana Rule of Civil Procedure 23, Plaintiffs bring this action for themselves and on behalf of all others similarly situated. The Class represented by Plaintiffs consists of:

Yellowstone County water users improperly invoiced by the City of Billings Public Works for water beginning in 2024 and continuing to the present date.

75. Defendant engaged in a systemic and programmatic scheme of overcharging Plaintiffs and the Class for water and then pursuing debts for water usage which Defendant knew or should have known were not owed.

76. Class certification is appropriate for the benefit of Plaintiffs and Class Members under Montana Rule of Civil Procedure 23(a) because: 1) members of the Class are so numerous that joinder of all members is impractical; 2) there are questions of law and fact common to the Class; 3) Plaintiffs' claims are typical of the claims of the Class; and 4) Plaintiffs will fairly and adequately protect the interests of the Class.

77. Questions of law and fact that are common to Plaintiffs' and Class Members' claims include, *inter alia*:

- a. Whether Defendant is liable to Plaintiffs/Class Members for compensatory damages based upon the legal theories asserted herein;
- b. Whether Plaintiffs/Class Members were invoiced for water that they did not consume;
- c. Whether Defendant should be enjoined from collecting wrongfully billed water bills and enjoined from shutting off users' water who have not paid; and
- d. Whether Defendant is liable for Plaintiffs'/Class Members' litigation costs and attorneys' fees;

78. Plaintiffs' claims are typical of the claims of the Class, and these common claims predominate over any questions affecting only individuals.

Plaintiffs have the same interests as other members of the Class and will vigorously prosecute those interests on behalf of the Class. Plaintiffs' counsel at Western Justice Associates, PLLC, is experienced in complex litigation of this type and will vigorously pursue Plaintiffs' and Class Members' interests.

79. Class certification is appropriate under Montana Rule of Civil Procedure 23(b)(1) because the prosecution of separate actions by individual members of the Class would create a risk of incompatible standards of conduct for Defendant and inconsistent or varying adjudications for all parties. In addition, adjudications with

respect to individual members of the Class might, as a practical matter, be dispositive of the interests of other individuals not parties to the litigation.

80. Class certification is appropriate under Montana Rule of Civil Procedure 23(b)(2) because Defendant has acted, and refused to act, on grounds generally applicable to the Class, making injunctive or declaratory relief appropriate for the benefit of Plaintiffs and the Class.

81. The questions of law and fact that are common to Plaintiffs and Class Members predominate over any questions affecting only individual members. A class action is superior to other methods of adjudicating this controversy under Montana Rule of Civil Procedure 23(b)(3) because: 1) the relatively small amount of individual damages substantially limits Class Members' ability and motive to prosecute the action individually; 2) there has been no litigation already commenced by members of the Class to determine the questions presented; 3) even if any individual Class Members could afford separate litigation, it would be economically inefficient and unduly burdensome to the courts in which the individual cases would proceed; and 4) due to the fact that Plaintiffs' and Class Members' claims arise from a common nucleus of operative facts, the class action device will provide the benefits of economies of scale and comprehensive adjudication by a single court.

III. CLAIMS FOR RELIEF

COUNT ONE – BREACH OF CONTRACT

82. All allegations asserted in this Complaint are incorporated herein by reference. The allegations in this Count support the claims of both the named Plaintiffs and the Class Members.

83. Plaintiffs and Class Members had an implied contract with Defendant according to 28-2-103 MCA, wherein Defendant offered Plaintiffs and Class Members public water utilities and Plaintiffs and Class Members accepted Defendant's offer by paying for said utilities.

84. Defendant had a fiduciary obligation to ensure accurate billing for Plaintiffs and Class Members.

85. Defendant breached its duty to Plaintiffs and Class Members by charging Plaintiffs/Class Members for water they demonstrably did not use.

86. Defendant's breach of contract caused damages to Plaintiffs and Class Members.

COUNT TWO –BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING

87. All allegations asserted in this Complaint are incorporated herein by reference. The allegations in this Count support the claims of both the named Plaintiffs and the Class Members.

88. Every contract contains a covenant of good faith and fair dealing,

requiring parties to act honestly, fairly and in good faith to not undermine the other party's contractual rights.

89. Defendant breached the covenant of good faith and fair dealing by failing to maintain billing safeguards to ensure Plaintiffs and Class Members were billed accurately.

90. Defendant has a special relationship with Plaintiffs and Class Members as a monopolistic utility provider.

91. Defendant breached the covenant of good faith and fair dealing by charging Plaintiffs and Class Members for water they demonstrably did not use.

92. Defendant breached the covenant of good faith and fair dealing by providing Plaintiffs and Class Members absurd explanations regarding why their water bills were radically increasing.

93. Defendant breached the covenant of good faith and fair dealing by pursuing enforcement of collections of funds from Plaintiffs and Class Members despite knowing billing errors existed and disputes were unresolved. Defendant knew or should have known that the debts it sought to collect were not owed.

94. Defendant's violation of the covenant of good faith and fair dealing caused damages to Plaintiffs and Class Members.

COUNT THREE – NEGLIGENCE

95. All allegations asserted in this Complaint are incorporated herein by

reference. The allegations in this Count support the claims of both the named Plaintiffs and the Class Members.

96. Defendant had a duty to Plaintiffs and Class Members to ensure accurate utility billing.

97. Defendant had a heightened duty of care and a fiduciary duty because it had it had actual and constructive knowledge of its billing system failures.

98. Defendant breached its duty of care by failing to ensure that its charges were equitable in proportion to the services rendered (i.e. quantity of water supplied), in accordance with Mont. Code Ann. § 7-13-3026.

99. Defendant further breached its duty of care by pursuing payment of debts that it knew or should have known were not owed.

100. Defendant's negligent acts and failures to act are the direct and proximate cause of the damages to Plaintiffs and Class Members.

COUNT FOUR – NEGLIGENCE PER SE

101. All allegations asserted in this Complaint are incorporated herein by reference. The allegations in this Count support the claims of both the named Plaintiffs and the Class Members.

102. Defendant is liable to Plaintiffs and Class Members under negligence per se.

103. Defendant's actions were in violation of Montana statutes and

regulations governing charges for utility services, including but not limited to, Mont. Code Ann. § 7-13-3026.

104. Montana statutes and regulations were designed to protect Plaintiffs and Class Members. The damages suffered by Plaintiffs and Class Members are the kind of harm that Montana statutes and regulations were designed to prevent. Defendant's violation of statute including but not limited to, Mont. Code Ann. § 7-13-3026, was the direct and proximate cause of the damages to Plaintiffs and Class Members.

COUNT FIVE – DECEIT

105. All allegations asserted in this Complaint are incorporated herein by reference. The allegations in this Count support the claims of both the named Plaintiffs and the Class Members.

106. Defendant is liable to Plaintiffs for Deceit.

107. Defendant owed Plaintiffs and Class Members a fiduciary duty to ensure accurate billing for water usage.

108. Defendant knew that its water billing was inaccurate yet continued to insist that Plaintiffs and Class Members pay inaccurate, extremely high bills, or lose water access.

109. Defendant's misleading of Plaintiffs and the class was willful.

110. Many Plaintiffs and Class Members relied on Defendant's misrepresentations and paid their water bills.

111. Plaintiffs and Class Members suffered harm because of Defendant's deceit.

COUNT SIX – DECLARATORY AND INJUNCTIVE RELIEF

112. All previous paragraphs are hereby incorporated as though fully stated herein.

113. Mont. Code Ann. § 7-13-3026 requires that a municipality create "just and equitable" rates for water usage.

114. Plaintiffs and other persons similarly situated are entitled to (1) a declaration, pursuant to the Montana Declaratory Judgment Act, from this Court that the inaccurate water bills are unjust and inequitable under Mont. Code Ann. § 7-13-3026.

115. Plaintiffs and other persons similarly situated are (2) entitled to an injunction requiring that the City cease shutting off the water of those that have not paid inaccurate bills, stop efforts to collect inaccurate bills, and return collected funds on unjust bills to those that have paid.

IV. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request the following relief:

- a. For the certification of a class pursuant to Montana Rule of Civil Procedure Rule 23;
- b. For an order establishing a system to identify the Class Members.

The details of such system should be evaluated after initial discovery has been conducted against Defendant;

- c. For an order enjoining Defendant from continuing to overbill Plaintiffs and Class members and preventing the water shut off of Plaintiff and Class members that have received unreasonably high water bills.
- d. For an order enjoining Defendant from continuing to pursuing water bill debts that Plaintiffs and Class members do not owe.
- e. For an order directing Defendant to pay all costs associated with identifying and providing any notices to the Class;
- f. For a reasonable sum of money to compensate Plaintiffs and Class Members for attorneys' fees and costs incurred incident to the prosecution of these claims, pursuant to the Common Fund Doctrine, Private Attorney General Doctrine; the Declaratory Judgment Act; Montana Code Annotated § 27-10-711 and any other applicable law;
- g. Such further relief as the Court deems just.

JURY DEMAND

Plaintiffs request a jury trial on all issues triable by jury.

DATED this 6th of February, 2026.

WESTERN JUSTICE ASSOCIATES, PLLC

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