

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION

DELYN MCKENZIE-LOPEZ, <i>et al.</i> ,	)	
	)	Case No. 15 CH 4802
Plaintiffs,	)	
	)	Hon. Pamela McLean Meyerson
v.	)	Calendar 11
	)	
CITY OF CHICAGO, a Municipal Corporation,	)	
	)	
Defendant.	)	
<hr/>		
ANTOINE WILLIS, <i>et al.</i> ,	)	Case No. 16 CH 14304
	)	
Plaintiffs,	)	Hon. Pamela McLean Meyerson
	)	Calendar 11
v.	)	
	)	
CITY OF CHICAGO, a Municipal Corporation,	)	
	)	
Defendant.	)	

PLEASE READ THIS NOTICE CAREFULLY. IT RELATES  
TO THE PROPOSED SETTLEMENT OF CLASS ACTIONS AND  
CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS.

**You are eligible for a settlement payment and/or other relief if you sign and return the enclosed claim form(s) or if you submit a claim online at [INSERT WEBSITE ADDRESS].**

**I. What is this notice about?**

This Notice is being sent to notify you of two class action lawsuits against the City of Chicago (the "City") relating to its operation and enforcement of its speed and red light camera program (the "Lawsuits"). On August 21, 2017, the Court preliminarily approved a settlement of the Lawsuits. The purpose of this Notice is to inform you of the Lawsuits and the proposed settlement. In addition, this Notice will advise you of what to do if you want to remain a part of the Lawsuits, what to do if you want to exclude yourself from the Lawsuits and how joining or not joining the Lawsuits may affect your legal rights.

**II. What are the Lawsuits about?**

On March 23, 2015, a class action lawsuit was filed in the Circuit Court of Cook County, Illinois, presently entitled *McKenzie-Lopez, et al. v. City of Chicago*, Case No. 15 CH 4802 (the "*McKenzie-Lopez* Lawsuit"). The *McKenzie-Lopez* Lawsuit alleged that the City failed to provide motorists with the notice they were entitled to under the Municipal Code of Chicago (the "MCC"), unlawfully accelerated liability determinations and prematurely assessed late penalties in connection with alleged speed and red light camera violations. Among other things, the Lawsuit sought to void the fines, penalties and other amounts assessed in connection with these violations. The City denies the allegations and asserts that the violations, determinations of liability, fines and penalties, and the photographic and video evidence maintained by the City in support of its determinations of liability are valid.

On November 1, 2016, a class action lawsuit was filed in the Circuit Court of Cook County, Illinois, presently entitled *Willis, et al. v. City of Chicago*, Case No. 16 CH 14304 (the “*Willis Lawsuit*”). The *Willis Lawsuit* challenged the legality and constitutionality of the City of Chicago Automated Enforcement Violation Review and Refund Ordinance of 2016 (the “*Review and Refund Ordinance*”). The *Review and Refund Ordinance* was passed by the City Council in September of 2016 in response to the *McKenzie-Lopez Lawsuit* and authorized new administrative adjudications of alleged speed and red light camera violations that occurred from March 23, 2010 to May 17, 2015. The *Willis Lawsuit* alleged that the *Review and Refund Ordinance* was passed in an effort to give the City another chance to adjudicate liability and assess “new and separate” fines and penalties for alleged speed and red light camera violations challenged in the *McKenzie-Lopez Lawsuit*, which Plaintiffs allege is illegal under Illinois law and the Illinois Constitution. The City denies that the *Review and Refund Ordinance* is illegal or unconstitutional. It contends that offering motor vehicle owners an additional opportunity to contest violations subject to the *McKenzie-Lopez Lawsuit* is lawful, appropriate and provides motor vehicle owners the relief the *McKenzie-Lopez Lawsuit* seeks. The City believes that the *Review and Refund Ordinance* provides a defense, among others, to the *McKenzie-Lopez Lawsuit*.

### **III. What are the benefits of the proposed settlement?**

The City will create a fund in the amount of \$38,750,000 (the “*Settlement Fund*”). Class Members are eligible for a cash payment of up to fifty percent (50%) of all fines, penalties and other amounts paid or collected on an alleged speed or red light camera violation subject to the *McKenzie-Lopez Lawsuit*. Class Members are also eligible to extinguish up to fifty percent (50%) of all unpaid or uncollected fines, penalties and other amounts owed on an alleged speed or red light camera violation subject to the *McKenzie-Lopez Lawsuit*. To the extent the amount of cash payments claimed, plus any other amounts refunded under the second and third paragraph below and the attorneys’ fees and costs awarded to Class Counsel, exceeds \$26,750,000, the amount of the cash payments to each Class Member under this paragraph will be reduced on a pro rata basis so that the total amount paid in cash by the City will equal \$26,750,000. To the extent the amount of debt extinguishment claimed under this paragraph exceeds \$12,000,000, the amount of the debt extinguished for each Class Member under this paragraph will be reduced on pro rata basis so that the total amount of debt extinguished by the City will equal \$12,000,000.

If you previously requested a hearing under the *Review and Refund Ordinance*, you may still submit a claim for a 50% refund or debt extinguishment. However, you will waive your right to a hearing on any violation for which you submit a claim and for which you previously requested a hearing. If you do not submit a claim for a 50% refund or debt extinguishment on a violation, for which you previously requested a hearing, you are entitled to pursue the hearing on that particular violation and, if successful, shall be given a full refund of any amounts paid or collected on the violation and/or the entirety of any amount owed on the violation shall be extinguished. Any amounts refunded as a result of such a hearing shall be paid from the cash portion of the *Settlement Fund*. Any amount of debt extinguished as a result of such a hearing shall be extinguished separate from and in addition to the *Settlement Fund*.

Class Members who on or after July 1, 2012 and until May 31, 2015 paid a speed or red light camera fine within 25 days of the determination of liability and were charged a late payment penalty that was paid or collected are entitled to a full refund of that late payment penalty. Any such Late Payment Penalty Refunds refunded under this paragraph shall be paid from the cash portion of the *Settlement Fund*.

The proposed settlement provides for other relief, including changes the City made to its notice and late penalty practices to address the allegations raised in the *McKenzie-Lopez Lawsuit*. The City has also agreed that no Class Member’s speed or red light camera violation subject to the *McKenzie-Lopez Lawsuit* will be

considered for purposes of determining whether a vehicle is eligible for immobilization or impoundment, or driver's license suspension.

The City shall implement a debt relief program for Class Members who pay the fine for any speed or red light camera violation subject to the *McKenzie-Lopez* Lawsuit. Under this program, the City has agreed to waive all previously-assessed late payment penalties, interest, collection fees, and collection costs for any such violation. The amounts of these payments shall be extinguished separate from and in addition to the Settlement Fund. Additional notices will be sent out at a later date with further details of how to take advantage of this program.

If the only debt owed by a Class Member for a speed or red light camera violation subject to the *McKenzie-Lopez* Lawsuit is for late payment penalties or collection fees, the City will automatically waive such penalties or fees, which amounts shall be extinguished separate from and in addition to the Settlement Fund.

Separate from and in addition to the Settlement Fund, the City will also pay for all settlement administration fees and costs, as well as incentive awards of \$15,000 each to Plaintiff Delyn McKenzie-Lopez and Plaintiff Erica Lieschke and \$3,000 to Plaintiff Antoine Willis.

#### **IV. How do I receive a settlement payment or debt extinguishment?**

**In order to receive the payment or debt extinguishment described in this Notice you must sign the enclosed claim form and mail the form to the City, or you can submit your claim online through the settlement website at [insert website address], by the DUE DATE of December 11, 2017. A self-addressed envelope is provided with this notice that you can use to mail in your claim form.**

Regardless of whether you mail the claim form or submit a claim online, **you must do so by the DUE DATE of December 11, 2017** to be eligible to receive a payment or debt extinguishment. Settlement payments and debt extinguishment will only be issued if the proposed settlement is granted final approval by the Court.

**Please note that not all speed and red light camera violations are eligible for refunds and/or debt extinguishment. Only those tickets covered by the Lawsuits as described in Section VIII below, and during the time period described therein, are eligible for refunds and/or debt extinguishment under this settlement.**

#### **V. How do I receive a refund of a late payment penalty?**

Only certain violations are eligible for a full refund of a late payment penalty as described in Section VIII. If you are eligible for a refund of the late payment penalty, a second claim form (entitled LATE PAYMENT PENALTY CLAIM FORM) will be enclosed herewith. **You must sign and mail that claim form to the City or submit your claim online through the settlement website at [insert website address], by the DUE DATE of December 11, 2017** to claim your refund. If the LATE PAYMENT PENALTY CLAIM FORM is not enclosed with this Notice, then you are not eligible for this benefit.

#### **VI. Why is there a proposed settlement?**

The Court has not decided in favor of either side in the Lawsuits. Plaintiffs and Class Counsel believe the claims have merit. The City does not. The City is settling to avoid the expense, inconvenience and inherent risk of litigation. Plaintiffs and Class Counsel believe that the proposed settlement is in the best interest of Class Members because it provides appropriate recovery and other relief now while avoiding the risk,

expense and delay of pursuing the case through trial and any appeals, including the possibility of no recovery for Class Members whatsoever.

## **VII. What is a class action lawsuit?**

A class action lawsuit is a legal action in which one or more people represent a large group, or class, of people. The purpose of a class action lawsuit is to resolve at one time similar legal claims of the members of the group.

## **VIII. Who is in the class?**

On November 2, 2016, the Court certified the *McKenzie-Lopez* Lawsuit as a class action. The classes and sub-classes, which have since been amended, are defined as follows:

All individuals or entities to whom the City of Chicago issued a determination of liability on an alleged automated speed enforcement or automated traffic law enforcement system violation before any request was made for an adjudication by mail or for an administrative hearing or where no such request was made (the "Notice Class"). The Notice Class is limited to alleged automated speed enforcement or automated traffic law enforcement system violations that were issued on or after March 23, 2010 and prior to May 17, 2015.

All individuals or entities from whom the City of Chicago received payment, either directly or indirectly, toward any fines or penalties in connection with a determination of liability on an alleged automated speed enforcement or automated traffic law enforcement system violation that was issued before any request was made for an adjudication by mail or for an administrative hearing or where no such request was made (the "Notice Sub-Class"). The Notice Sub-Class is limited to alleged automated speed enforcement or automated traffic law enforcement system violations that were issued on or after March 23, 2010 and prior to May 17, 2015.

All individuals or entities to whom the City of Chicago assessed a late penalty prior to the expiration of the 25-day grace period commencing after a determination of liability on an alleged automated speed enforcement or automated traffic law enforcement system violation (the "Penalty Class"). The Penalty Class is limited to late penalties assessed from July 1, 2012 to May 9, 2015.

All individuals or entities from whom the City of Chicago received payment, either directly or indirectly, toward late penalties assessed prior to the expiration of the 25-day grace period commencing after a determination of liability on an alleged automated speed enforcement or automated traffic law enforcement system violation (the "Penalty Sub-Class"). The Penalty Sub-Class is limited to late penalties assessed from July 1, 2012 to May 9, 2015.

On August 4, 2017, the Court certified the *Willis* Lawsuit as a class action and defined the class as the same as the Notice Class set forth above. Any individual meeting the definition of any of these classes and/or sub-classes, as well as the class in the *Willis* Lawsuit, shall be referred to herein as a "Class Member" and, collectively, as the "Class" or "Class Members."

**IX. When and where is the final approval hearing?**

The final approval hearing has been set for February 9, 2018 at 11:00 AM before the Honorable Pamela McLean Meyerson in Courtroom 2305 of the Richard J. Daley Center, 50 W. Washington St., Chicago, Illinois 60602. The Court will hear any comments from the parties or objections concerning the fairness of the proposed settlement at the final approval hearing, including the amount requested for attorneys' fees and costs or the requested incentive awards.

You **do not** need to attend the final approval hearing to remain a Class Member or to obtain any benefits under the proposed settlement. You or your own personal attorney may attend the hearing if you wish, at your own expense. You do not need to attend this hearing to have a properly filed and served written objection considered by the Court.

**X. How can I exclude myself from the case and the settlement?**

Any Class Member has the right to be excluded from the case by written request. If you wish to be excluded from the case, you must mail a written request to the City stating that you want to be excluded from the class. All exclusion requests must include (a) the name and case number of the Lawsuits: *McKenzie-Lopez, et al. v. City of Chicago*, Case No. 15 CH 4802 and *Willis, et al. v. City of Chicago*, Case No. 16 CH 14304; (b) the full name, address and telephone number of the Class Member electing exclusion; and (c) a statement that the Class Member elects to be excluded from the Lawsuits and elects not to participate in the settlement. A Class Member's exclusion request must be postmarked no later than **the DUE DATE of December 11, 2017** and sent to the following address: [insert mailing address].

If you properly and timely elect to exclude yourself from the case, you will not have any rights as a Class Member pursuant to the proposed settlement, you will not be eligible to receive any monetary payment or debt extinguishment under the proposed settlement, you will not be bound by any further orders or the judgment entered in the Lawsuits and you will remain able to pursue any claims alleged in the Lawsuits against the City on your own and at your own expense and with your own counsel. If you proceed on an individual basis after excluding yourself from the Lawsuits you may receive more, or less, of a benefit than you would otherwise receive under this proposed settlement or no benefit at all.

If you do not exclude yourself from the case, you will be deemed to have consented to the Court's jurisdiction, and to have released the claims at issue against the City as explained below and will otherwise be bound by the proposed settlement.

**XI. How can I object to the settlement?**

If you do not exclude yourself from the Lawsuits, you can comment in opposition to the settlement, including the amount requested for attorneys' fees and costs or the requested incentive awards, which is known as an objection, and you have the right to appear before the Court to express your opposition. Your written objection must be submitted in writing and filed with the Court by **the DUE DATE of December 11, 2017**. The address for the Clerk of the Court is: Richard J. Daley Center, 50 West Washington Street, 8<sup>th</sup> Floor, Chicago, Illinois 60602. You must also send copies of your written objection to the attorneys for the parties at the following addresses:

**Class Counsel:**

Myron M. Cherry  
Jacie C. Zolna  
Myron M. Cherry & Associates, LLC

**Counsel for the City:**

J. David Duffy  
Thompson Coburn LLP  
55 East Monroe Street, 37<sup>th</sup> Floor

30 North LaSalle Street, Suite 2300  
Chicago, Illinois 60602

Chicago, Illinois 60603

Andrew W. Worseck  
Andrew S. Mine  
City of Chicago, Department of Law  
30 N. LaSalle St., Suite 1230  
Chicago, Illinois 60602

To be valid and considered by the Court, any such written objection must include the following information: (a) the name and case number of the Lawsuits: *McKenzie-Lopez, et al. v. City of Chicago*, Case No. 15 CH 4802 and *Willis, et al. v. City of Chicago*, Case No. 16 CH 14304; (b) the Class Member's name, address and telephone number; (c) a statement of each objection and the relief that the Class Member is requesting; and (d) a statement of whether the Class Member intends to appear, either in person or through counsel, at the final approval hearing. Only Class Members who include a statement of intention to appear in the written objection filed with the Court and delivered to Class Counsel and the City's counsel may speak at the final approval hearing. You may, but need not, file and serve your objection through counsel of your choice and you may appear at the final approval hearing either in person or through personal counsel hired at your expense. If you make your objection or appearance at the final approval hearing through an attorney, you will be responsible for your personal attorney's fees and costs.

If you do not submit a written objection to the proposed settlement or the amount requested for attorneys' fees and costs or the requested incentive awards in accordance with the deadline and procedure set forth above, you will waive your right to be heard at the final approval hearing.

## **XII. What is the effect of final settlement approval?**

If the Court approves the proposed settlement after the final approval hearing, it will enter a judgment dismissing the lawsuit with prejudice and releasing all claims as described in the next paragraph. If you do not exclude yourself from the case, the proposed settlement will be your sole mechanism for obtaining any relief.

All Class Members who do not timely elect to opt out of the proposed settlement, and each of their respective successors, assigns, legatees, heirs and personal representatives release and forever discharge the City and each of its respective officers, employees, agents, representatives, attorneys, insurers, and all persons acting by, through, under or in concert with them, or any of them, from all manner of action, causes of action, claims, demands, rights, suits, obligations, debts, contracts, agreements, promises, liabilities, damages, charges, penalties, losses, costs, expenses, and attorneys' fees, of any nature whatsoever, known or unknown, in law or equity, fixed or contingent, which they have or may have arising out of the claims asserted in the Lawsuits or other claims based on the ATL and/or ASE violations covered by the Notice Class, Notice Sub-Class, Penalty Class, Penalty Sub-Class and the class certified in the *Willis* Lawsuit referenced in Section VIII above.

If the proposed settlement is not approved, the Lawsuits will proceed as if no settlement had been reached. There can be no assurance that if the settlement is not approved and the Lawsuits resume that Class Members will recover more than what is provided for under the proposed settlement or will recover anything at all.

## **XIII. Who are the lawyers for Plaintiffs and class members?**

The following lawyers ("Class Counsel") are serving as counsel for the Class:

Myron M. Cherry  
mcherry@cherry-law.com  
Jacie C. Zolna  
jzolna@cherry-law.com  
Myron M. Cherry & Associates, LLC  
30 North LaSalle Street, Suite 2300  
Chicago, Illinois 60602  
(312) 372-2100 (telephone)  
(312) 853-0279 (facsimile)

From the beginning of the case to the present, Class Counsel has not received any payment for their services in prosecuting the Lawsuits or in obtaining this proposed settlement, nor have they been reimbursed for any out-of-pocket costs they have incurred. Class Counsel will apply to the Court for an award of attorneys' fees in the amount of no more than 30.32% of the Settlement Fund (\$11,750,000), as well as an additional amount for actual costs, which Class Counsel currently estimates will be between \$18,000-\$30,000. If the Court approves Class Counsel's petition for fees and costs, it will be paid from the cash portion of the Settlement Fund. Class Members will not have to pay anything toward the fees or costs of Class Counsel. You do not need to hire your own lawyer because Class Counsel is working on your behalf and will seek final approval of the settlement on behalf of the Class Members. You may hire your own lawyer to represent you in this case if you wish, but it will be at your own expense.

**XIV. Where can I get more information about the Lawsuit?**

This notice provides only a summary of the Lawsuits. More information can be found at [insert website address] or by calling [insert phone number]. You may also examine the court file at the office of the Clerk of the Court on the 8<sup>th</sup> Floor of the Richard J. Daley Center, 50 West Washington Street, Chicago, Illinois 60602.

**PLEASE DO NOT CONTACT THE COURT (INCLUDING  
THE CLERK OF THE COURT OR THE JUDGE) OR THE CITY  
WITH QUESTIONS ABOUT THE LAWSUITS**

Dated: [insert date of Notice]

BY ORDER OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS