

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NORTHEAST DIVISION

LINDA GAMBLE, RUBY COPELAND and))	Civil Action No.
ROGER COPELAND on behalf of themselves))	
and all others similarly situated,))	
)	
Plaintiffs,))	
)	
)	
v.))	
)	
CITY OF COOKEVILLE, TENNESSEE,))	
)	
Defendant))	JURY TRIAL
)	DEMANDED

MOTION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION

Upon the Verified Complaint herein and upon the affidavit of the Plaintiffs filed herewith, Plaintiffs, by and through their attorneys respectfully move the Court for:

1. A Temporary Restraining Order restraining the Defendant, its officers, agents, employees, and all those persons in active concert or participation with it, from terminating utility services of any customer of the City of Cookeville's Electric, Water, and Gas Department without providing at least seven days notice before termination by first class mail.

2. A Temporary Restraining Order restraining the Defendant, its officers, agents, employees, and all those persons in active concert or participation with it, from

terminating utility services of any customer of the City of Cookeville's Electric, Water, and Gas Department from using the orange hang tag as a method of notifying alleged delinquent utility account holders of discontinuance of service or the possibility of discontinuance of service.

3. A Temporary Restraining Order restraining the Defendant, its officers, agents, employees, and all those persons in active concert or participation with it, from terminating utility services of any customer of the City of Cookeville's Electric, Water, and Gas Department without actual notice of procedures for disputing a bill and obtaining a hearing to dispute any utility bill.

4. A Temporary Restraining Order ordering the Defendant, its officers, agents, employees, and all those persons in active concert or participation with it, from terminating utility services of any customer of the City of Cookeville's Electric, Water, and Gas Department without providing a hearing before a neutral and detached hearing officer with the opportunity for the consumer to be represented by counsel and present testimony and documents as well as confront and cross-examine adverse witnesses, and to appeal any ruling to a higher authority so as to provide a fair and impartial opportunity to be heard.

5. A Temporary Restraining Order restraining the Defendant, its officers, agents, employees, and all those persons in active concert or participation with it, from

charging the arbitrary fee of \$10.00 to deliver notice of the orange hang tag as referenced in the Verified Complaint.

Said Temporary Restraining Order is requested to be issued by this Court pending a hearing and determination of Plaintiff's Motion for Preliminary Injunction, on the grounds that immediate and irreparable loss, damage, and injury will result to plaintiff class and the status quo between the parties will be irreparably altered before notice can be given and the Defendant or its attorneys can be heard in opposition.

Plaintiffs also respectfully move the Court for the following:

1. A Preliminary Injunction enjoining the Defendant, its officers, agents, employees, and all those persons in active concert or participation with it, from terminating utility services of any customer of the City of Cookeville's Electric, Water, and Gas Department without providing at least seven days notice before termination by first class mail to the address of the customer using said services.

2. A Preliminary Injunction enjoining the Defendant, its officers, agents, employees, and all those persons in active concert or participation with it, from terminating utility services of any customer of the City of Cookeville's Electric, Water, and Gas Department from using the orange hang tag as a method of notifying alleged delinquent utility account holders of discontinuance of service or the possibility of discontinuance of service.

3. A Preliminary Injunction enjoining the Defendant, its officers, agents, employees, and all those persons in active concert or participation with it, from terminating utility services of any customer of the City of Cookeville's Electric, Water, and Gas Department without actual notice of procedures for disputing a bill and obtaining a hearing to dispute any utility bill.

4 . A Preliminary Injunction enjoining the Defendant, its officers, agents, employees, and all those persons in active concert or participation with it, from terminating utility services of any customer of the City of Cookeville's Electric, Water, and Gas Department without providing a hearing before a neutral and detached hearing officer with the opportunity for the consumer to be represented by counsel and present testimony and documents as well as confront and cross-examine adverse witnesses, and to appeal any ruling to a higher authority so as to provide a fair and impartial opportunity to be heard.

5. A Preliminary Injunction enjoining the Defendant, its officers, agents, employees, and all those persons in active concert or participation with it, from charging the arbitrary fee of \$10.00 to deliver notice of the orange hang tag as referenced in the Verified Complaint.

Plaintiffs further move, that based on their obvious economic condition, the likelihood that the Defendant will suffer no monetary loss and would only be slightly

inconvenienced by the issuance of a Temporary Restraining Order should the Court subsequently reverse itself, and the meritorious nature of the Plaintiffs' claim, that the bond to be posted for security be dispensed with by the Court. *See* California v. Tahoe Regional Planning Agency, 766 F.2d 1319 (9th Cir. 1985).

Respectfully submitted,

ATTORNEYS FOR PLAINTIFFS

Samuel J. Harris, BPR#17392
P.O. Box 873
Cookeville, TN 38503
Telephone: (931) 372-7227

John Wayne Allen, BPR#19405
One South Jefferson Avenue; Suite One
Cookeville, TN 38501
Telephone: (931) 525-6368

Jerry Burgess
One South Jefferson Avenue; Suite One
Cookeville, TN 38501
Telephone: (931) 528-5388