IN THE IOWA DISTRICT COURT IN AND FOR MUSCATINE COUNTY

LAURIE FREEMAN, et al., Plaintiffs, v. GRAIN PROCESSING CORPORATION, Defendants.	Case No. LACV021232 **RULING ON CLASS COUNSEL'S CROSS-MOTION FOR CORRECTIVE ACTION**

On September 22, 2017, Jonathan and Whitney Powell, by and through their counsel, Attorney Ronald Parry,[1] filed a motion requesting that the Court issue supplemental notice to the *Freeman* Class to advise class members of alternative settlement options available in the ongoing litigation. The motion sought to attach an announcement of a settlement agreement reached with the defendant, Grain Processing Corporation ("GPC") outside of the class action structure. Attorney Matt Reilly also filed a motion to extend the opt- out period for class members to exclude themselves from the class action. Counsel for the plaintiff *Freeman* Class ("Class Counsel") resisted the Motion for Supplemental Notice and filed their own Cross-Motion for Corrective Action; Class Counsel filed their Combined Reply in Support of Plaintiffs' Cross-Motion for Corrective Action and Resistance to Motion to Enlarge the Time for the Class to Opt Out on October 18, 2017. On October 6, 2017, GPC filed its Resistance to Plaintiffs' Cross-Motion for Corrective Action and Response to Plaintiffs' Resistance to September 22, 2017 Motion to Issue Supplemental Notice.[2]

The Court held a hearing on October 19, 2017 during which it heard oral argument on this matter. At that hearing, Attorney Parry withdrew the Parry Group's Motion for

[1] Attorney Ronald Parry, along with additional counsel representing opted-out *Freeman* class members in their individual capacity ("the Parry Group"), collectively appeared before the Court in the present Motion.
[2] GPC filed a Supplement to Its Resistance to Plaintiff's Cross-Motion for Corrective Action on October 19, 2017.

Supplemental Notice and Motion to Enlarge the Opt-Out Period by oral motion. The parties appeared by their respective counsel of record. The Court has reviewed the file, listened to the oral arguments of counsel, examined the exhibits and considered the applicable law. In light of the aforementioned factors, the Court rules as follows.

Factual Background and Proceedings

The *Freeman* class was certified by this Court on October 28, 2015. Prior to certification, on August 19, 2015, the Court entered an injunction prohibiting the Parry Group from engaging in unsupervised communications or solicitations with *Freeman* class members. However, the injunction applied only to those *Freeman* class members who were not already clients of outside counsel. This injunction was extended through the end of the opt-out period, October 16, 2017, in an order entered on December 13, 2016. Class notice, following the issuance of procedendo, was approved by the Court on August 7, 2017.

Class Counsel initiated the recent court filings on September 18, 2017, alleging that the Parry Group violated this Court's December 13, 2016 order by setting up a mobile billboard and RV Law Office advertising a purported settlement reached with GPC in their individual lawsuits. Class Counsel also alleged that Attorney Jeff Carter violated this Court's specific prohibition against solicitation of class members by holding meetings at the local Muscatine Hampton Inn, advertising this purported settlement to class members who were not his existing clients. The Court presided over an evidentiary hearing in this matter on October 2, 2017 and issued a written ruling on October 9, 2017. In its Order, the Court granted in part and denied in part Class Counsel's request for sanctions and injunctive relief against the Parry Group. The Court agreed that the mobile billboard must be removed, as it constituted blatant solicitation of class members who were not already existing clients of the Parry Group; however, it found no solicitation

inherent in the RV law office and declined to sanction the attorneys on this ground. Though the motion for sanctions against Attorney Carter was denied, the Court explicitly reiterated its prohibition against any attorney involved in the class action or individual lawsuits against GPC from soliciting non-client class members.

Class Counsel vigorously resisted the supplemental notice proposed by the Parry Group. Rather, Class Counsel argues that the settlement negotiations between GPC and the Parry Group, as well as their subsequent developments during the opt-out period, require corrective action. Though the settlement negotiations were, by their terms, limited to existing clients of the Parry Group attorneys who had opted out of the class action, Class Counsel allege that the negotiations were conducted in such a way as to intentionally extend to the rest of the *Freeman* class. More specifically, Class Counsel alleges that the timing of settlement talks and manner of the negotiations was expressly purposed to advertise news of the settlement with GPC. Class Counsel charges that GPC incentivized Parry Group attorneys to solicit more *Freeman* class members to opt out of the class action and enlist with the Parry Group to settle their legal claims. Class Counsel cautions that GPC's motives are dubious and were designed to undermine the *Freeman* class action.

In their September 28, 2017 Resistance and Cross-Motion, Class Counsel ask the Court for a wide array of relief. First and foremost, Class Counsel request that all actions taken by *Freeman* class members to opt out of the class action since August 31, 2017 be deemed null and void. Class Counsel further urges that corrective notice be sent out to *Freeman* class members who opted out of the Class or otherwise hired attorneys from the Parry Group after this date. Additionally, Class Counsel requests that the Court (1) enjoin the Parry Group from advertising their settlement plan with GPC or otherwise communicate with *Freeman* class members in any

way as to solicit class members who were not already their clients as of August 31, 2017 or otherwise encourage them to opt out; (2) enjoin GPC from engaging in any communications with absent class members, directly or indirectly, except through Class Counsel; (3) declare that any settlement offer extended by GPC to class members, other than those who were the Parry Group's existing clients as of August 31, 2017, must be relayed through Class Counsel; and (4) declare that any settlement reached (or even offered) with the Parry Group must be submitted to the Court for "fair and reasonable" review.

GPC filed its response on October 6, 2017 after receiving special permission from the Court. GPC takes no position on whether additional notice should be issued to the *Freeman* Class; however, it insists that if additional notice is issued, any notice should fairly and accurately summarize the negotiated settlement agreement without advocating a position on the matter. GPC argues that it has an interest—and in fact a right—to settle all legal claims against it, given the large number of expedited lawsuits currently pending, and potentially pending, against it. Specifically, GPC argues that principles of due process stemming from the preclusive effects of class litigation demand that *Freeman* class members have access to full information concerning their legal rights. In addition, GPC argues that throughout the duration of the opt-out period, Class Counsel does not have the authority of a traditional attorney-client relationship to seek such relief. GPC states that, for the same reasons, Class Counsel cannot restrict class members from seeking independent legal advice. Finally, GPC claims that the extent to which Class Counsel requests additional relief is inappropriate and unsupported by the circumstances in this case.

As The Parry Group's motions have been withdrawn, they are no longer before the Court for consideration. The Court will therefore address each of Class Counsel's requests for relief in turn.

Applicable Law and Analysis

I. Iowa District Court Authority Under Iowa Rule of Civil Procedure 1.268.

In class action litigation, district courts possess ultimate control over case-management issues and the conduct of parties to ensure the integrity of the proceedings and protection of the class. *See* Federal Judicial Center, *Manual for Complex Litigation* § 21.33 & n.917 (4th ed. 2004). Indeed, "[b]ecause of the potential for abuse [in class action litigation], a district court has both the duty and the broad authority to exercise control over a class action and to enter appropriate orders governing the conduct of counsel and parties." *Gulf Oil Co. v. Bernard*, 452 U.S. 89, 100 (1981) (citing Federal Rule of Civil Procedure 23(d)).[3] District courts thus have the obligation to exercise their authority in the best interests of the class. *See id.*; *see also Georgine v. Amchem Prods., Inc.*, 160 F.R.D. 478, 497 (E.D. Penn. 1995) ("Under [the rules of civil procedure], it is [the court's] duty to protect the integrity of *the class* and the administration of *the class* generally.") (emphasis added).This is especially true during the opt-out period, when communications by parties pose a distinct threat of influence over class members' decision of whether to continue their participation with the class action. *See Impervious Paint Indus., Inc. v. Ashland Oil*, 508 F. Supp. 720, 722-24 (W.D. Ky. 1981) (stating that the time between class certification and the end of the opt-out period is a precarious one due to the effects that ill-

[3] Iowa courts are authorized to rely on federal authorities construing analogous provisions of rules governing federal class action lawsuits when interpreting their own authority under the Iowa Rules of Civil Procedure. *See Vos v. Farm Bureau Life Ins. Co.*, 667 N.W.2d 36, 44 (Iowa 2003) ("Iowa Rules of Civil Procedure 1.261 to 1.263, the rules regarding class actions, closely resemble Federal Rule of Civil Procedure 23."). Iowa Rule 1.268, too, is substantially similar to its federal counterpart in Federal Rule 23(d).

conceived communications by parties can have on class members' ability to make informed legal decisions).

To accomplish these aims in federal class action litigation, the Federal Rules confer broad discretionary authority to district courts to issue additional notice to the class. Fed. R. Civ. P. 23(d)(1)(B); *see also* 3 William Rubenstein, *Newberg on Class Actions* § 8:26 (5th ed. 2017). Likewise, Iowa Rule 1.268 confers considerable discretion allowing district courts to fashion orders to maintain the conduct of the class action as it proceeds through litigation:

> The court on motion of a party or its own motion may make or amend any appropriate order dealing with the conduct of the action including, but not limited to, any of the following:
> . . .
> *b.* Requiring, for the protection of the members of the class or otherwise for the fair conduct of the action, that notice be given as the court directs, of the following:
>
> (1) Any step in the action.
>
> (2) The proposed extent of the judgment.
>
> (3) The opportunity of members to signify whether they consider the representation fair and adequate, to enter an appearance and present claims or defenses, or otherwise participate in the action.

Iowa R. Civ. P. 1.268(1)(b). Such authority to issue notice fits within the court's duty to ensure "the protection of the members of the class" and to otherwise ensure the "fair conduct of the action." *Id.* Notice—properly issued—is critical to class action litigation because it "provides the structural assurance of fairness that permits representative parties to bind absent class members." David Herr, *Annotated Manual for Complex Litigation* § 21.31 (4th ed. 2017) (citing *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 627 (1997)). Indeed, "[t]he issuance of corrective or protective notice under [the rules of civil procedure] is considered an exercise of the court's

case-management authority." *Manual for Complex Litigation* § 21.33 & n.917 (citing *Gulf Oil*, 452 U.S. at 100).

Though not an exhaustive list,[4] district court authority to issue discretionary notice to class members has largely been invoked in three main instances. *See Newberg on Class Actions* § 8.26. First, Courts have issued supplemental notice to permit class members to challenge the adequacy of their class representatives or to intervene in the action. *Id.* & n.7 (citing *Johnson v. Meriter Health Servs. Emp. Retirement Plan*, 702 F.3d 374, 370 (7th Cir. 2012)).

Second, courts have exercised their discretion to issue additional notice to inform class members of an opt-out right not otherwise available to that class action under the Federal Rules, or where particular fairness concerns demand it. *Id.* & n.8 (citing *Roshandel v. Chertoff*, 554 F. Supp. 2d 1194, 1205 (W.D. Wash. 2008) (ordering notice where failure to opt out of the class action would delay class members' individual immigration naturalization decisions)). This includes where newly relevant information is available that may materially affect class members' decision whether or not to opt out of the class action. *Id.* Others have invoked their discretionary power to send notice after denying class certification. *Id.* & n.9 (citing *Puffer v. Allstate Ins. Co.*, 614 F. Supp. 2d 905, 909 (N.D. Ill. 2009)); *but cf. In re Katrina Canal Breaches Litig.*, 401 Fed. App'x 884, 887 (5th Cir. 2010) (upholding the district court's exercise of discretion in declining to issue notice alerting class members of their individual legal rights after denying class certification).

A final reason courts have often cited to issue supplemental notice to class members has been to correct misinformation or misrepresentations made by parties to the class action. *Manual for Complex Litigation* § 21.313 (citing *Georgine*, 160 F.R.D. at 518 (finding that the deceptive

[4] "[Federal Rule 23(d)] sets out a non-exhaustive list of possible occasions for orders requiring notice to the class" and "does not require notice at any stage, but rather calls attention to its availability and invokes the court's discretion." Fed. R. Civ. P. 23(d) Advisory Committee's Note to 1966 amendment.

and misleading communications by counsel during the opt-out period opposing class settlement required corrective notice)). However, courts generally decline to issue additional notice under their discretionary powers where the purported rationale for the notice is specious. *Newberg on Class Actions*, § 8:26 & n.6 (citing *In re AOL Time Warner Erisa Ligit.*, 2008 WL 1724068, *2 n.3 (S.D.N.Y. 2008)).

II. Class Counsel's Cross-Motion for Corrective Action is Granted in Part and Denied in Part: Limited Corrective Action Will Advance the Interests of the *Freeman* Class.

Class Counsel urges that the Court order corrective action in order to remedy the current "mess" that has been created by, according to Class Counsel, the joint actions of the Parry Group and GPC. Among other forms of relief, Class Counsel asks for this Court to declare that all opt-out actions taken by class members after August 31, 2017 are null and void unless reaffirmed by filing a separate exclusion form. Class Counsel also asks that the Court order corrective notice be disseminated, updating class members of the recent developments in the GPC litigation and informing them of their opportunity to renew their opt-out election. Class Counsel concludes by seeking a laundry list of injunctive measures against the Parry Group and GPC. The Court agrees that a measure of corrective action is necessary at the present moment, but not to the degree proposed by Class Counsel.

"The Court's first task in fashioning the appropriate remedy is to attempt to restore the *status quo* if possible." *Kleiner v. First Nat'l Bank of Atlanta*, 102 F.R.D. 754, 772 (N.D.Ga.1983), *aff'd in part, vacated in part, and rev'd in part*, 751 F.2d 1193 (11th Cir.1985). With this principle in mind, the Court will consider each of Class Counsel's requests for relief separately.

A. Corrective Notice Is Appropriate to Ensure All Opt-Out Elections by *Freeman* Class Members Were Fully Informed and Independent.

Based on the above-mentioned conduct of the parties during the course of the opt-out period, the Court agrees with Class Counsel that corrective action is necessary and will advance the interests of the *Freeman* class. Though there is not evidence of widespread and intentional misconduct or irreparable damage to the integrity of the class, the Court must be satisfied that class members who opted out were provided with complete information regarding the settlement agreement with GPC and ensure that their decision to exclude themselves from the class action was fully informed. Rule 1.268(1) provides the Court with considerable authority and discretion to accomplish this aim. In sum, the Court finds that corrective notice will prevent further disruption to the class action and maintain an orderly administration of the pending litigation.

Class Counsel raises several points that are grounds for concern. The manner in which news of the Parry Group's settlement with GPC has spread causes the Court significant doubt regarding whether the decision to opt out was based on complete information and full understanding of the settlement terms. Letters from Attorneys Hope[5] and Kragnes to then-existing clients do not show complete information regarding specifics of the bargain struck for those plaintiffs electing to opt out of the class action. *See* Pl.'s Combined Reply, at 38-49; 50-59. Nor does the "Announcement of Settlement" filed with the Court—which the Parry Group originally sought to disseminate to the *Freeman* Class—reflect a complete listing of settlement terms. *See* Parry Group Mot. Requiring Announcement to be Sent to All Members of Class, Ex. 1. In short, the Announcement[6] paints a rosy picture that is not a fair representation of what it purports to be; it shows what settling class members receive, but not what they give up.

[5] Attorney Hope's role is not known. He is not technically part of the Parry Group but his letter indicates he must be working with the Parry Group as only attorneys in the Parry Group are authorized to put forth the settlement offer propounded by GPC.

[6] The announcement was read by local journalists and publicized in the Muscatine Journal. The Muscatine Journal is the local paper within the community.

In particular, the Court is not convinced that all of those class members electing to opt out were fully aware of terms critical to a complete understanding of their settlement rights, let alone the obligations that accompany them. The Announcement does not disclose that the settling individual in fact releases GPC from any and all liability for *future* harm caused by its operations—that GPC is relieved of liability *in perpetuity*. It does not mention the easement a settling individual must convey to GPC to allow them to continue operating their plant, regardless of any environmental impact on the individual's land. It does not mention that a settling individual must agree to a host of legal stipulations, chief among them that GPC is using "commercially reasonable means" to control the environmental effects of its plant operation, insulating it from future negligence claims.

The settlement, in effect, feeds the Parry Group attorneys a guaranteed fee when neither the fee nor the attorneys' relationship with GPC is disclosed to potential opt-out class members. The Announcement does not mention that one-third of any monetary sum received by a class member will actually go to the Parry Group attorneys for their legal services. Moreover, GPC, by its own admission, required all *Freeman* class members opting out of the class action to go through Parry Group lawyers who were recommending the settlement to all who would listen. Yet most egregiously, the Parry Group Announcement solicits *Freeman* class members and encourages them to opt out, but only in the interests of obtaining this fee. Nowhere are potential opt-out class members informed that the attorneys are only willing to accept clients for purposes of this settlement; that the attorneys are not actually willing to file suit on their behalf or otherwise represent their legal interests. In sum, the Announcement of Settlement does nothing but describe the enticing formula for calculating the cash payments that prospective class members will expect to receive through the settlement.

Though the Announcement has not actually been formally disseminated to the *Freeman* class, it stands to reason that these are the same terms publicized to and received by Muscatine residents. It further stands to reason that this incomplete information about the terms of the settlement is the news that "spread like wildfire" through the Muscatine community by word of mouth and enticed class members to forego their interest in the class action by opting out. *See* Parry Group 9/27/17 Resistance, ¶ 3. The Court finds there to be a sufficient factual basis before it to have cause for concern over the information being spread among absent class members in Muscatine.

In accordance with these findings, the Court orders that there shall be corrective notice sent to the *Freeman* Class. Class members should remain informed about the conduct of the parties and the action taken by the Court insofar as it affects their interests and independent decisions to pursue their legal rights against GPC. Other courts have liberally granted corrective notice where the conduct of parties has created confusion among class members and misconceptions about the pending litigation and class action legal procedure. *See Georgine*, 160 F.R.D. at 502-03, 528 (ordering that corrective notice and a new opt-out phase was necessary to remedy communications to class members encouraging them to opt out); *Tedesco v. Mishkin*, 629 F.Supp. 1474, 1487 (S.D. N.Y. 1986) (ordering an explanatory letter to class members as a remedy after defendant committed perjury and issued a "reply letter" to class members to respond to the allegations against it); *Impervious Plant Indus.,* 508 F.Supp. at 724 (ordering corrective notice where a large percentage of class members opted out of the class action specifically because they were given misleading and incomplete information about the lawsuit and legal procedures). Corrective notice here will ensure that *Freeman* class members have made a conscious, informed, and independent decision to exclude themselves from the class action.

The Court hereby directs Class Counsel to submit a proposed corrective notice to the *Freeman* Class for the Court to review. Generally, the notice shall contain factual developments through the opt-out period and summarize this Court's ruling on the conduct of the parties. It shall inform *Freeman* class members of the Court's findings that the terms of the settlement were not fully disclosed in client letters from counsel or the proposed Announcement of Settlement, that the information reported in the local paper was incomplete, and that information they received by word of mouth may be incomplete as well. In addition, the notice must inform class members that they are allowed to seek legal advice from any attorney—including, but not limited to, the Parry Group lawyers. The notice is to further instruct class members to notify the Court in writing if they are contacted during the opt-in period by any member of the Parry group, or anyone acting on behalf of the Parry Group.[7]

Although the Court declines to void the opt-out decisions entered since August 31, 2017, see Part B, *infra*, the Court finds that other remedial actions are appropriate. As described below, the Court finds that *Freeman* class members should have an opportunity to reconsider their decision to exclude themselves from the class action. Accordingly, the corrective notice shall also, in conspicuous language, alert class members to their opportunity to rescind their election to exclude themselves from the class action and void their opt-out form if they so wish. The corrective notice should therefore set forth the terms of the exact settlement offer by GPC, noting that all settlement agreements, releases, and retainer agreements involving the Parry Group or GPC will be voided upon opting back in to the Class Action.

[7] This does not, of course, in any way prohibit individuals from seeking out and contacting a Parry Group attorney on their own volition. Nor does it interfere with the Parry Group attorneys' right to discuss legal matters with their pre-existing clients retained prior to August 31, 2017. However, Parry Group attorneys are prohibited from contacting class members themselves. *See* Part C.1, *infra*.

Finally, the notice shall include language that the Parry Group lawyers have agreed to handle opt-out class members' settlements only—that they will not initiate any individual lawsuits, pursuant to their agreement with GPC, on any class member's behalf. Class members must be informed that if they fail to opt in during the time period provided by the Court and it turns out they are not eligible for the GPC settlement with the Parry Group, they have forfeited their opportunity to be a part of the *Freeman* class and will not be represented by Parry Group attorneys in any independent case they may wish to bring pursuant to the terms of the settlement agreement.

GPC and Parry Group lawyers shall jointly pay the cost of the corrective notice. While GPC did not, by itself, create the present "mess," it certainly contributed to the present situation. GPC not only approved the Announcement of Settlement knowing it did not include all material terms of the agreement, GPC approved the Announcement knowing it included favorable settlement terms that it knew it could never get from the *Freeman* class represented by Class Counsel. Further, the Court finds the timing of the settlement announcement to be highly suspect. The timing of the conclusion of negotiations and announcement of an agreement with the Parry Group—occurring in the middle of the opt-out period—clearly disrupted the orderly administration of the class action. In effect, this made the settlement offer readily available to all current Muscatine residents who are capable of providing the required easement, incentivizing class members to exclude themselves from the class action during the opt-out period. And although GPC certainly has a legitimate interest in settling the expedited civil actions pending against it, and preventing future expedited civil action filings, GPC easily could have waited to conclude the deal until after the exclusion period. At that time, the threat of expedited civil actions would be nil as only those opting out would be eligible to bring them. Thus, GPC should

bear a portion of the cost. The Parry Group, too, should pay their share of the cost of notice as a sanction for conduct that requires such remedial action. The Parry Group filed the Announcement of Settlement with no other conceivable purpose than to solicit class members to leave the *Freeman* class action and enlist them instead. Yet the Parry Group attorneys, in their excitement, failed to provide class members with a complete picture of the deal. The Court finds that, on this basis, the Parry Group attorneys should be held accountable as well.

B. Voiding Opt-Out Actions taken by Class Members since August 31, 2017 is Not Appropriate Relief; However, Limited Remedial Action is Warranted to Allow *Freeman* Class Members to Reconsider Their Decision to Opt-Out of the Class Action Based on Complete Information.

As an additional remedy for the alleged solicitation of *Freeman* class members, Class Counsel ask the Court to declare as null and void any opt-out actions taken after August 31, 2017 by any class members not already an existing client of one of the Parry Group attorneys. However, striking the decision of thousands of *Freeman* class members to opt-out of the class action is a drastic order for a court to command, and the Court finds that it is not an appropriate measure to remedy the harm in this case. Courts have voided the opt-outs of class members that were demonstrated to be the product of coercive, false, or otherwise misleading unilateral communications by one party in a class action and harm to the class results. *See, e.g.*, *Davis v. Westgate Planet Hollywood Las Vegas, LLC*, No. 2:08–cv–00722–RCJ–PAL, 2009 WL 5038508, at *8 (D. Nev. Dec. 15, 2009) (striking all class members who accessed class counsel's website and were identified as the "fruits" of the impermissible solicitation); *Georgine*, 160 F.R.D. at 489, 502 (voiding the opt-out actions of class members deceived through intentionally misleading mass mailings and targeted advertisements); *Impervious Paint*, 508 F. Supp. at 723-24.

There are two key points to take note of in those cases granting such extensive relief. First is the fact that in each case, the court voided class members' exclusion from the class action after finding that the improper communication was patently false, unilateral and coercive, or intentionally misleading. Such is not the case here. As previously ruled in its October 9, 2017 Order, the Court held that Attorney Carter was not actively soliciting *Freeman* class members when he held informational meetings for his existing clients that non-clients happened to hear about and attend out of self-interest. Further, the Court found that the RV law office was not improper. The billboard, though plainly solicitous, does not alone constitute such extreme measures as voiding all of the exclusion elections taken by class members after August 31, 2017. Class Counsel have not alleged—and evidence on the record does not show—that conduct by the Parry Group was improper to such a degree as was found in the above-cited cases.

However, as stated above, the Court *does* find the settlement terms advertised to Muscatine residents to be incomplete, failing to give class members a full understanding of their legal rights under the proposed deal when considering whether or not to opt out of the class action. The important point here, unlike the above cited cases, is that the Court is not concerned with false information or abusive or coercive tactics; rather, the Court is concerned that individuals who opted out of the *Freeman* Class might have done so on the basis of partial and incomplete information of GPC's settlement offer. If information spreading through the Muscatine community was incomplete, class members were therefore not fully informed of the benefits and detriments they were gaining nor the legal rights they were giving up by excluding themselves from the class action.

However, the Court declines to specifically find that the GPC settlement was secured through impermissible circumvention of the class process. It is true that GPC cannot

communicate with class members through others acting on GPC's behalf—but the circumstances in the present action do not contain similar concerns as those involved in the cases cited by counsel. Specifically, Class Counsel's heavy reliance on *In re Federal Skywalk Cases* is well-intentioned but misplaced. Aside from the procedural discrepancies, central to the sanctions imposed by that court was the finding that the defendant and plaintiff-intervenor engaged in communications that were patently false and intentionally misleading. In addition, the wrongdoer engaged in a demonstrated abuse of the rules of civil procedure by pursuing parallel litigation in state court that was pursued with the sole purpose of undermining the federal class action. 97 F.R.D. 370, 376-77 (W.D. Mo. 1983). The Court does not find that either the Parry Group or GPC has engaged in abusive or coercive litigation tactics, as were central to the sanctions imposed in *In re Federal Skywalk Cases*. It is not the case here that, due to the conduct of the parties, the *Freeman* class action is left in a condition where "[t]he havoc is nearly irremedia[ble]." *Id.* at 377 (voiding the election of class members to exclude themselves from the federal class action).

As further noted by GPC, the advent of expedited civil actions under Iowa Rule of Civil Procedure 1.281 *et seq.* has placed GPC—and all other potential class action defendants—in the precarious position of having to simultaneously defend both class action litigation and a multitude of individual civil actions, set on an expedited discovery, briefing, and trial schedule. This creates a pressing situation where a defendant must spend an enormous amount of time and resources defending hundreds of lawsuits at once. Unlike the parties in *In re Federal Skywalk Cases*, GPC has an independent, good faith stake in litigation outside of the class action. GPC certainly has an interest in settling as many of these cases as it can and cannot be denied the

opportunity to do so. The multitude of expedited civil actions pending against GPC is a legitimate concern and settlement, where it can afford to do so, is a strategic response.

The second important point is that, in each case cited by Class Counsel, the district court was able to identify which class members received the improper communications and were swayed to opt out of the class action *as a result of the communication itself*. Even if the Court were to grant Class Counsel's request, it is unlikely that an order by this Court would be successful at identifying those class members who would not have opted out "but for" the conduct of the Parry Group and GPC. Unlike website access logs in *Davis*, 2009 WL 5038508, at *8, the mailing lists in *Georgine*, 160 F.R.D. at 489, 502 and *Kleiner*, 102 F.R.D. at 772, or personal communications in *Impervious Paint*, 508 F. Supp. at 723-24, there is no way for the Court to identify which class members saw the billboard advertising the Parry Group's settlement with GPC or read about the announcement of settlement in the local paper and were then influenced by it to opt out of the *Freeman* class action.[8] Moreover, it appears that the decision to opt out cannot be attributable solely to the billboard itself, but rather to the fact that a settlement with GPC was available and had spread through the city of Muscatine by word of mouth. Voiding all of the opt-out actions taken by *Freeman* class members outright is hardly a viable option and will not preserve the *status quo* for this reason alone. Furthermore, 2099 individuals opted out of the class. At the hearing, Attorney Parry informed the Court that the number who had signed with the Parry group was in the eight hundreds. Accordingly, many members opted out for personal reasons unrelated to the settlement.

[8] Even Class Counsel recognizes that "[i]t is difficult to know how many of these [new opt-out forms] are fruits of the GPC Settlement Offer," noting only that a number of these were filed by a member of the Parry Group. Pl.'s Resistance to Mot. for Order Directing Notice of Settlement Offer From GPC and Cross-Mot. for Corrective Action, at 11 n.9.

In sum, the Court declines to issue an order nullifying all of the opt-out elections by *Freeman* class members occurring after August 31, 2015. *Cf. Hernandez v. Best Buy Stores, L.P.*, No. 13cv2587-JM (KSC), 2015 WL 7176352 (S.D. Cal. Nov. 13, 2015) (holding that the "mere possibility" of abusive or unethical tactics was not enough to require corrective action where there was not sufficient evidence of improper conduct by counsel). The Court declines to mandate that hundreds of Muscatine residents who have elected to retain private counsel will automatically have that decision voided by the Court. Muscatine residents have a right to seek certainty rather than the hope of a better outcome.[9]

Rather, class members who opted out of the class action litigation after August 31, 2017 shall be given an opportunity to void their exclusion decision for themselves. Though the majority of courts presiding over class actions have immediately proceeded to void the opt-out elections for class members affected by improper communications, this Court concludes that an alternative will be more palatable for the *Freeman* Class and do justice to the fair conduct of the class action. *Cf. Kleiner*, 102 F.R.D. at 772-73 *vacated as moot* 751 F.2d at 1199 (permitting class members who opted out based on the "abusive solicitation program" to elect to void their exclusion after entry of judgment).

The Court will instead create an "opt-in" period of two weeks, beginning from the issuance of the corrective notice, for anyone who no longer wishes to accept the individual settlement after receiving full information of its terms. The Court finds that allowing Muscatine residents to void their own opt-out decision best maintains an orderly administration of the class

[9] Attorney James Larew advanced an additional argument at the October 19, 2017 hearing that some individuals who accept the GPC settlement are on state or federal benefits and may lose those benefits based on their settlement payout. Though the Court appreciates the concern for the financial ramifications that settlement may pose for individual Muscatine residents, it finds this argument unpersuasive. Such consequences are no different than what may happen through a GPC settlement through the *Freeman* class action. There are legitimate uses for the funds that will not affect benefits.

action and fairly respects the rights of all parties. Of the 2099 opt-out documents received by the Court, less than half have enlisted the Parry Group as legal counsel. An opt-in period is more reasonable here because it will not require affirmative action of the 1,000-plus class members who simply do not wish to participate in litigation against GPC or otherwise engage in the Parry Group's settlement. The opt-in/corrective notice shall be provided to the 2099 individuals (less the 280 pre-existing Parry Group clients who are not subject to this ruling) who have opted out to ensure all are fully informed. Other courts, too, have struck this middle road. *See In re McKesson HBOC Inc. Sec. Litig.*, 126 F. Supp. 2d 1239, 1246 (N.D. Cal. 2000).

C. Injunctive Relief Sought by Class Counsel is Granted In Part.

In addition to corrective action, Class Counsel seeks a wide array of additional sanctions against the parties to this lawsuit. In sum, Class Counsel requests the Court to enjoin and strictly prohibit both GPC and the Parry Group attorneys from any communications with absent class members. Further, Class Counsel demands that any offer by GPC to settle the claims of class members still participating in the *Freeman* class must be made through Class Counsel and, in addition, be submitted to the Court for "fair and reasonable" review.

Much of Class Counsel's additional requests for relief implicates the nature of attorney-client relationship between Class Counsel and absent class members during the opt-out phase of class action litigation. Class Counsel asserts unequivocal authority of an attorney-client relationship with absent class members once the class has been certified. GPC and the Parry Group note, however, that the class is not yet settled while the opt-out period remains open and class members do not definitively decide whether to be represented by Class Counsel until after its expiration when they elect whether or not to exclude themselves. On one hand is Class Counsel's interest in maintaining control and orderly administration of the class over which they

have been deemed competent to represent. On the other is the absent class members' interest—indeed their right—in their choice of legal counsel and independent exercise of their legal rights.

Class Counsel contends that neither GPC nor the Parry Group attorneys may communicate with absent class members because the attorney-client relationship between Class Counsel and absent class members precludes such communication with represented parties. Class Counsel asserts that "[t]he law is clear that once a class has been certified, any communication with class members must be through class counsel." Pl.'s 9/28/17 Resistance & Cross Motion, at 4.

However, a more precise reading of federal case law suggests that the exact nature of the relationship between Class Counsel and absent class members depends on the context in which it is examined—that class counsel do not have an attorney-client relationship in the traditional sense. "During the time between the institution of a class action and the close of the opt-out period, the status of plaintiffs' counsel in relation to the class members cannot be stated with precision." *Impervious Paint*, 508 F.Supp. at 722. Indeed, authorities on the matter have noted that "absent class members are class counsel's clients for some purposes but not for others." *Newberg on Class Actions* § 19:2. Some courts have determined that certification makes the class members the clients of class counsel for the "practical purposes" of determining post-judgment attorney's fees levied against the defendant. *See Van Gemert v. Boeing Co.*, 590 F.2d 433, 440 n.15 (2d Cir. 1978), *aff'd*, 444 U.S. 472 (1981). Importantly, others have noted a distinction in prohibiting defendants and defense counsel from communicating with opposing class members versus other parties that do not have interests *adverse* to those of the class. *See In re McKesson*, 126 F. Supp. 2d at 1245-46 (refusing to ban independent counsel from communicating with putative class members because it was not a case "where an adverse party is

attempting to harass or confuse absent class members" but one "where an outside attorney is arguably trying to *assist* class members with the prosecution of their individual claims"); *Superior Beverage Co, Inc. v. Owens-Illinois, Inc.*, No. 83C512, 1988 WL 87038, *2 (N.D. Ill. Aug. 16, 1988) (noting that, unlike *Kleiner v. First Nat'l Bank of Atlanta*, there was no indication that the interests of absent class members were adverse or otherwise not aligned with the interests of individual plaintiffs to justify fully enjoining outside counsel's communication with them); *In re Payment Card Interchange*, No. 05-MD-1720(JG), 2014 WL 4966072, *31 (E.D.N.Y. Oct. 3, 2014) (stating "[n]othing prohibits nonparties to a class action litigation from communicating with class members" while noting that a court still reserves the ability to issue curative action where such communications are false or misleading (citing *Newberg on Class Actions* § 9:10)). Indeed, a core concern in crafting judicial orders protecting the integrity of a class is the potential for abuse of unsupervised communications with *adverse* parties, such as class members and defense counsel. *See* ABA Formal Op. 07-445 (April 11, 2007).

The overwhelming majority of the case law cited by Class Counsel pertains to instances where the improper intrusion into the attorney-client relationship between class members and class counsel occurred *by the defendant*.[10] Yet legal authority supporting the notion that class counsel has a traditional attorney-client relationship with absent class members during the opt-out phase, to the exclusion of outside counsel sought out for independent legal advice, is far from universal. One case cited by Class Counsel, *McWilliams v. Advanced Recovery Systems*, does discuss the attorney-client relationship between class counsel and absent class members and

[10] *See Fulco v. Continental Cablevision, Inc.*, 789 F. Supp. 45, 47 (D. Mass. 1992); *In re Winchell's Donut Houses, L.P. Securities Litig.*, 1988 WL 135503, at *2 (Del. Ch. Dec. 12, 1988); *Bower v. Bunker Hill Co.*, 689 F. Supp. 1032, 1034 (E.D. Wash. 1985); *Resnick v. Am. Dental Ass'n*, 95 F.R.D. 372, 376 (N.D. Ill. 1982); *Kleiner v. First Nat'l Bank of Atlanta*, 751 F.3d 1193, 1206-07 (11th Cir. 1985); *Impervious Paint Indus., Inc. v. Ashland Oil*, 508 F. Supp. 720, 723 (W.D. Ky. 1981); *Gortat v. Capala Bros., Inc.*, No. 07-CV-3629, 2010 WL 1879922, *2 (E.D.N.Y. May 10, 2010).

prohibits intrusion by outside counsel. 176 F. Supp. 3d 635, 642 (S.D. Miss. 2016). But *McWilliams* involved overt solicitation by an outside attorney who lied to class members, claiming that she represented the legal interests of the class even though class counsel had already been designated. *Id.* at 638. Here, the Parry Group has not claimed to represent the interests of the *Freeman* Class; rather, those attorneys have accepted the representation of absent class members who have chosen to opt out pursuant to Iowa Rule 1.267.

This analysis would seem to be consistent with other authorities examining the issue. One authority on the subject aptly states that the "majority rule":

> [W]hile named plaintiffs are clients of class counsel precertification, absent class members are not represented parties prior to class certification *and the expiration of any opt-out period*, and thus neither the ethical rules governing communications with represented parties nor the attorney-client privileges, are applicable precertification.

2 McLaughlin on Class Actions § 11:1 (13th ed.) (emphasis added). Though this does not address the precise relationship of absent class members during the opt-out period, after certification, courts have generally agreed that the traditional notion of attorney-client relationship is of limited value in the class context. *See, e.g.*, *In re Potash Antitrust Litig*, 162 F.R.D. 559, 561 n.3 (D. Minn. 1995). More specifically, one state appellate court has stated with precision:

> [t]he relationship between the class representative plaintiff and class counsel is one of private contract, whereas the relationship between absent class members and class counsel is one of court creation. Accordingly, class counsel will be deemed to fully represent all class members only after a court has certified the class and the opt-out time period has expired, giving putative class members time to decide whether to participate in the class.

In re Chicago Flood Litig., 682 N.E.2d 421, 425-26 (Ill. App. Ct. 1997) (internal citations omitted). Thus, although class counsel "owe[s] some general fiduciary duties to unnamed putative class members, . . . the existence of such a fiduciary duty does not create an *inviolate*

attorney-client relationship with each and every member of the putative class" *in every situation*. *In re McKesson*, 126 F. Supp. 2d at 1245-46 (emphasis added); *see also In re Wells Fargo Wage and Hour Employment Prac. Litig*, 18 F. Supp. 3d 844, 851 (S.D. Tex. 2014); *In re Katrina Canal Breaches Consol. Litig.*, No. 05-4182. 2008 WL 4401970, at *3 (E.D. La. Sept. 22, 2008). Indeed, the attorney-client relationship is complex and nuanced, but even in the traditional context it is not established until "a client manifests an intent that a lawyer provide legal services to the client and the lawyer accepts, or when there is a substitute for that assent given by a court or by another person authorized to act for the client." ABA Formal Op. 07-445 (April 11, 2007). Therefore, "it cannot truly be said that [class counsel] fully 'represents' prospective class members until it is determined that they are going to participate in the class action." *Kleiner*, 102 F.R.D. at 769; *see also Tedesco*, 629 F.Supp. at 1483 (agreeing that the defendant breached "a limited attorney-client relationship" when the defendant contacted absent class members).

Based on a close inspection of the cited case law, this Court declines to rule, definitively, that Class Counsel has an inviolate and exclusive attorney-client relationship with absent class members of the *Freeman* class during the opt-in period. Nor does the Court embrace the opposite, however. Class Counsel do have a significant interest in the relationship during the opt-in process due to concerns that absent class members were not all fully informed on the settlement offer they left the *Freeman* class to pursue. Rather, the better rule is one that takes into account the contextual underpinnings of the circumstances at hand.[11] Central to this examination is the role of appointed class counsel to protect the interests of the class at large and

[11] This Court's Ruling in its 12/13/16 Combined Ruling agreed that an attorney-client relationship existed between *Freeman* class members and Class Counsel that allowed Class Counsel to obtain an accurate client list from the Parry Group attorneys. Such a determination was for the limited purpose of defining *Freeman* class members' legal representation for the benefit of the parties and avoiding improper communications by Class Counsel with class members already committed to representation by the Parry Group attorneys. As such, this observation is not inconsistent with today's ruling.

the Court's responsibility to maintain the fair conduct of the lawsuit through orderly administration of the class action. *See* Iowa R. Civ. P. 1.268(1)(b).

The Court now turns to the final forms of relief sought by Class Counsel. Injunctive relief is warranted insofar as it is consistent with this Court's previous orders and the above analysis.

1. Injunction from Communications with Absent Class Members

Class Counsel's motion for additional injunctive relief must be granted in part. Class Counsel seeks to prohibit any and all communications between the Parry Group and absent class members—even those initiated by absent class members for purposes of exploring alternative options for exercising their legal rights outside of the *Freeman* class action. This proposition is at odds with the fundamental principle underlying the opt-out process: that absent class members be given the opportunity to determine for themselves what is in their best interests and pursue their legal claims through their own choice of counsel. *Hernandez v. Vitamin Shope Indus.*, 174 Cal. App. 4th 1441, 1454 (Cal. Ct. App. 2009) ("It is essential that the class members' decision to participate or to withdraw be made on the basis of independent analysis of [their] own self-interest."); *see also* 12/13/16 Combined Ruling, at 13. ("Absent class members may hire and discuss this case with an attorney of their choosing."). The relief requested by Class Counsel prohibiting all contact is overbroad and burdens the class members' right to seek out independent counsel with regards to their legal interests pertaining to the class action, defeating the purpose of the opt-out period.

Further, it is not clear that Class Counsel can prohibit such communications by invoking their attorney-client relationship. The Parry Group does not represent interests *adverse* to the *Freeman* class, and in a sense, represents interests consistent with those of many class members. Indeed, as the Court is ordering an opt-in period, the class is not yet settled and the aim is still for

class members to determine for themselves whether their interests are more closely aligned with those of Class Counsel or outside counsel. It is important to note that the only class members affected by this order are those who have already opted out and that are entitled to corrective notice. For clarity, the Court reiterates that the preexisting clients (approximately 280) represented by the Parry Group are not entitled to corrective notice and are not affected by this order.

However, the Parry Group's conduct is inconsistent with the fair conduct and orderly administration of the class action procedure. Class Counsel are correct that the duty to protect absent class members during this extremely sensitive time is vested with them, and that for purposes of protecting class members from further confusion and incomplete information, their attorney-client relationship with absent class members justifies injunctive measures. As such, the Parry Group lawyers are enjoined from advertising their settlement with GPC or soliciting representation from class members nor may they contact class members during the opt-in phase. In sum, the Parry Group attorneys are permitted to communicate with those *Freeman* class members who seek consultation about the opportunity to opt back in instead of settling their individual claims with GPC. However, the Court's current injunction against counsel otherwise remains in full force. The Parry Group attorneys are not to solicit their services, advertise their settlement agreement with GPC, or otherwise solicit class members to exclude themselves from the class action and enlist them as legal counsel (except for those who contact them).[12]

As Class Counsel's request for injunctive relief pertains to GPC, GPC is an adverse party and is plainly prohibited from communicating directly with *Freeman* class members. But this is not a case, as in *Impervious Paint Industries* or *Kleiner*, where a class action defendant

[12] Restated, this does not, of course, prohibit the Parry Group attorneys from answering the inquiries of individuals who reach out to them. This injunction in no way limits a class member's or opt-out member's right to seek legal advice.

approached class members directly to solicit individual opt-outs and settlements. The Court cannot prohibit GPC from resolving individual cases brought before it, especially considering the implications that Iowa's Expedited Civil Action Rules have on class action litigation against defendant litigants. As previously stated by this Court, "[w]hether GPC can resolve claims with those wishing to reach such a resolution is between GPC and the settling parties," 12/13/16 Combined Ruling, at 10, so long as it does not circumvent this Court's or the class action process.

As the Court has noted above, GPC walks a fine line in its conduct of individual settlement negotiations outside of the *Freeman* class action, and has ultimately required corrective action by this Court. Accordingly, the Court enjoins GPC from engaging in this conduct, or similar conduct, in the future. While GPC certainly has an interest in resolving the hundreds of individual claims simultaneously proceeding against it, (see Iowa Rule of Civil Procedure 1.507), GPC's rationale for the manner in which it chose to do so is not persuasive as GPC could have waited one month until the opt-out period was over. While it was not the sole wrongdoer, GPC certainly contributed to the present circumstances by extending the settlement offer to all class members who would enlist the Parry Group. The Court does not look upon GPC's actions with favor. GPC is not permitted to communicate through counsel that does not, at the time of that communication, represent a particular class member. Thus, GPC cannot work in conjunction with outside counsel in a way that encourages further class members to opt out of the class action and settle their claims individually by promoting their settlement. *See Impervious Plant*, 508 F. Supp. at 723 (noting clear indications that defendant unilaterally contacted class members to opt out with the intention to sabotage the class notice); *Kleiner*, 102 F.R.D. at 771-71, *aff'd* 751 F.2d at 1210.

2. Order directing all settlement offers from GPC to go through Class Counsel.

Class Counsel also requests the Court to issue an order stating that all settlement offers—even those directed at opted-out class members—go through Class Counsel. Yet the authority relied on to support this request is overstated. The cases cited by Class Counsel are factually distinguishable and thus are contextually inapposite. *Larry James Oldsmobile-Pontiac-GMC Truck Co., Inc. v. General Motors Corp.*, 175 F.R.D. 234, 237 (N.D. Miss. 1997) does not stand broadly for the notion that any proposed settlement by a defendant in a class action must be made through class counsel. There, the court's holding specifically pertained to the voluntary settlement of a *named class representative's* individual claims after certification—indeed, it was the fiduciary capacity that the class representative possessed that required him to act in the best interests of the class rather than use the litigation to further his own settlement. *Id.* at 236. Such is not the case here. Likewise, a close reading of the court's order in *In re Shell Refinery* makes clear that defense counsel had an obligation to communicate individual settlement offers to class members through class counsel "*since the opt-out period expired*," where the class member "*did not take action to be excluded from the class*" and was indisputably represented by class counsel. 152 F.R.D. 526, 535 (E.D. La. 1989) (emphasis added); *see also id.* at 537-38.[13]

It is not the role of Class Counsel to have every communication—occurring outside the scope of the class action litigation—filtered through their purview. Accordingly, Class Counsel's relief requested on this matter is denied as it relates to the offer currently pending between the Parry Group clients and GPC. However, all future settlement offers must be made solely through Class Counsel.

[13] Class Counsel's citations to *In re Federal Skywalk Cases*, 97 F.R.D. 370 (W.D. Mo. 1983), *Breswick & Co. v. Briggs*, 135 F. Supp. 397 (S.D.N.Y. 1995), and *Romstadt v. Apple Computer, Inc.*, 948 F. Supp. 701 (N.D. Ohio, 1996) similarly do not convince the Court because, as noted above, this case does not present similar concerns as the remarkably abusive litigation tactics employed by counsel in those cases.

3. Order for the Court to conduct a "fair and reasonable" review of any settlement accepted by Independent Counsel.

Class Counsel's final request is that this Court conduct a "fair and reasonable" review of any individual settlements, external to the *Freeman* class action, accepted by opted-out class members who are represented by Parry Group attorneys. This request is also denied.

The Court does not agree that this settlement amounts to an alternative "opt-in" class settlement as it does not apply to over 11,000 former residents who are class members as those residents are not able to provide an easement. Rather, the settlement only applies to current residents who have elected to take up individual representation of their legal rights. Nearly 14,000 individuals still remain in the *Freeman* class.

The Court therefore declines to review the Parry Group's settlement with GPC as the opted-out class members participating in this settlement have not settled as part of the *Freeman* class, but rather as a part of a large group willing to use the expedited civil action procedure instead of class action litigation. Though negotiated *en masse*, each individual plaintiff settling with GPC is represented by an attorney. If the settlement turns out, in fact, to be improper, opted-out class members will still have a remedy in the form of a malpractice action against the Parry Group attorneys. So long as the decision is fully informed and independent, Muscatine residents are more than capable of weighing their own long and short term interests and deciding for themselves what is in their best interests. *See In re Shell Oil Refinery*, 152 F.R.D. at 536 (making clear that "[t]he court's concern in reviewing an individual settlement is not to see that the settlement is fair, but that the offer provided data sufficient to enable each [class member] to make an informed choice to settle or proceed" (internal quotations omitted)).

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. Class Counsel's request for corrective notice is granted. Class Counsel shall submit a proposed corrective notice to the Court to be distributed to the members of the Freeman class who have opted out. The corrective notice shall address the items set forth in this ruling.

2. Class Counsel's request to void all opt-outs is denied.

3. All individuals who opted out of the class action are granted a right to void his or her opt-out and to now "opt-in" to the class action. The "opt-in" period shall be for a period of 14 days from the issuance of the corrective notice.

4. The Court hereby voids all settlement agreements, releases, retainer agreements, fee contracts and other settlement documents for any individual who elects to void his or her opt out and to "opt-in" to the class action.

5. All costs associated with the creation and distribution of the corrective notice shall initially be borne by Class Counsel. GPC and the Parry Group shall reimburse Class Counsel for the cost associated with the creation and distribution of the corrective notice.

6. Class Counsel's request that the Court receives all settlement offers made outside the class action and conduct a "fair and reasonable" review is denied.

7. All future settlement offers directed to class members shall only be made through Class Counsel.

8. The Parry Group Lawyers are enjoined from advertising their settlement, directly or indirectly, or soliciting representation of individuals who were class members.

9. The Parry Group lawyers shall not contact the individuals who have opted-out during the "opt-in" period. The Parry Group lawyers are allowed to talk to any individual who contacts them. This shall be made clear in the corrective notice.

10. GPC attorneys are enjoined from communicating with class members directly or through third parties during the opt-in period.

11. This order is not applicable to the 280 individuals who had signed with the Parry Group prior to August 31, 2017.

12. The motions filed by the Parry Group are deemed withdrawn.

State of Iowa Courts

Type: OTHER ORDER

Case Number	**Case Title**
LACV021232	FREEMAN LAURIE ET AT VS GRAIN PROCESSING CORPORATION

So Ordered

Tom Reidel, District Court Judge,
Seventh Judicial District of Iowa