

**Judge Mosbarger – Law & Motion – Wednesday, November 29, 2023 @ 9:00 AM
TENTATIVE RULINGS**

1. 21CV00451 MCMILLAN, SCOTT ET AL V. CITY OF GRIDLEY ET AL

EVENT: City of Gridley's Motion for Summary Judgment or, in the Alternative, Summary Adjudication of Issues

Defendants/Respondents' and Plaintiffs/Petitioners' Requests for Judicial Notice are granted. Defendants/Respondents' Objections to Evidence and Motion to Strike Evidence Submitted in Support of Plaintiffs' Opposition and Objections and Motion to Strike Improper Statements of Fact in Plaintiffs' Opposition and overruled and denied in their entirety. The Court finds that the fact that there are transfers to the general fund constitutes only evidence that there may be excessive charges but it is not dispositive of the core issue of whether residential customers are in fact overcharged. There remains a triable issue of material fact as to whether the City's residential electric rates exceed service cost and the City has failed to meet this burden with any evidence on its motion for summary judgment/adjudication. Under *Barratt*, the change to the fees in September 2020 was in effect the City's affirmation that the fees met the legal requirements for adoption under the circumstances present at that time and thus, the fees were subject to legal challenge even though the City alleges that the rates were decreased and upper-tier rates rescinded. See, *Barratt American, Inc. v. City of Rancho Cucamonga* (2005) 37 Cal. 4th 685, 728-729. Thus, the rate changes of September 21, 2020 were actionable.

The Court further finds that a triable issue of material facts exists as to whether the residential customers of electricity in Gridley have a "property interest" in the continued provision of electrical services, and whether such a finding of a property interest in continued power service for purposes of procedural due process, can be a taking. See, *Memphis Light, Gas & Water Div. v. Craft* 436 U.S. 1, 15-19. Defendant's Motion is denied. Counsel for the Plaintiffs shall submit a form of order consistent with this ruling within two weeks.

2. 21CV00759 SIMS, SHARON ET AL V. SINGH, JOBANIT

EVENT: Plaintiffs' Motion to Strike Costs

As it relates to the "Other" costs, the Court finds that the Pro Hac Vice fees were reasonably necessary to the conduct of the litigation rather than merely convenient or beneficial to its preparation and the Motion is denied as to that cost. The Court finds that the health and life expectancy of the Plaintiffs is relevant in a wrongful death action and medical records are not only relevant to that issue, but they are also reasonably calculated to lead to the discovery of admissible evidence. As such, the claimed costs for the medical records of Plaintiffs Ariel De Jesus Ortiz Cassandra Ortiz were for reasonable and necessary information for the defense and the Motion is denied as to those costs. Likewise, the Court finds that the life expectancy of the Decedent is relevant to damages claimed in this wrongful death action and therefore the medical records of Decedent Lupe Ortiz were for reasonable and necessary information for the defense and the Motion is denied as to those costs as well. Lastly, the Court finds that due in part to

the timing of the service of subpoenas to obtain the business records of Defendant Shaheen Transport, LLC was reasonable and necessary and the Motion is denied as to this cost. The Motion is denied in its entirety. Counsel for the Defendant shall submit a form of order consistent with this ruling within two weeks.

3. 23CV00352 CAN CAPITAL, INC. V. BARNES, GAIL JEAN ET AL

EVENT: Order of Examination (Gail Jean Barnes)

There is no Proof of Service in the Court's file. If Gail Jean Barnes appears, the Court will swear in the Judgment Debtor for examination.