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Our File No. 48011.0003

December 15, 2017

VIA U.S. MAIL

Chief Justice Tani Cantil-Sakauye
and Associate Justices
California Supreme Court
350 McAllister Street
San Francisco, California 94102-4797

SUPREME COURT
FILED

DEC 26 2017

Jorge Navarrete Clerk

Deputy

Re: *Citizens for Fair REU Rates v. City of Redding* (Case No. S224779):
Notice of New Authority

Honorable Chief Justice and Associate Justices:

I represent Respondent City of Redding ("City") in the above-captioned matter. I write under California Rules of Court, rule 8.520(d), to inform the Court of new authorities that were not available in time to be included in the City's briefing on the merits: *Jacks v. City of Santa Barbara* (2017) 3 Cal.5th 248 ("Jacks"); *City of San Buenaventura v. United Water Conservation District, et al.* (Dec. 4, 2017, S226036) ___ Cal.5th ___ [2017 WL 6001905] ("Ventura").

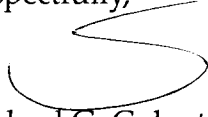
In *Jacks*, this Court recounts the history and delineates the reach of Proposition 26. (*Jacks, supra*, 3 Cal.5th 248, 256–262.) *Jacks* also confirmed that Proposition 26 is not retroactive and suggests that it exempts franchise fees and other "amounts paid in exchange for property interests" from its definition of "tax." (*Id.* at pp. 262–263.)

In *Ventura*, this Court clarifies the standard of review in a Proposition 26 case, noting that a fee must satisfy two independent requirements to avoid characterization as a tax requiring voter approval: (1) it must be in an amount "no more than necessary to cover the reasonable costs of the governmental activity," and (2) "the manner in which those costs are allocated to a payor [must] bear a fair or reasonable relationship to the payor's burdens on, or benefits received" from the service for which the fee is charged. (Slip Op. at p. 26, citing Cal. Const. art. XIII C, § 1, subd. (e); *Dix v. Superior Court* (1991) 53 Cal.3d 442, 459.)

Both cases are relevant to pages 28–48 of the City’s Opening Brief regarding the City’s assertion the municipal utility’s payment in lieu of taxes is a fee for service excluded from Proposition 26’s definition of tax and *Jacks* is relevant to the brief’s argument that Redding’s PILOT is grandfathered as to Proposition 26, discussed at pages 24–29 of the City’s Reply Brief on the Merits and pages 16–18 and 48–56 of the City’s Opening Brief.

If the Court would prefer the parties to provide supplemental briefing to discuss this new authority, the City would be happy to do so.

Respectfully,



Michael G. Colantuono
SBN: 143551

MGC:arg
Enclosure: Proof of Service by Mail

PROOF OF SERVICE

Citizens for Fair REU Rates v. City Of Redding

California Supreme Court Case No. S224779

Third District Court of Appeal Case No. C071906

Shasta County Superior Court Case No. 171377 (Consol. with Case No. 172960)

I, Georgia K. Gray, declare:

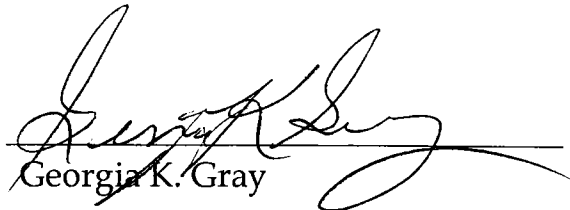
I am employed in the County of Nevada, State of California. I am over the age of 18 and not a party to the within action. My business address is 420 Sierra College Drive, Suite 140, Grass Valley, California 95945-5091. On December 15, 2017, I served the document described as **NOTICE OF NEW AUTHORITY** on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

SEE ATTACHED LIST

BY MAIL: The envelope was mailed with postage thereon fully prepaid. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Grass Valley, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after service of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on December 15, 2017 at Grass Valley, California.


Georgia K. Gray

SERVICE LIST

Citizens for Fair REU Rates v. City of Redding
California Supreme Court Case No. S224779
Third District Court of Appeal Case No. C071906

Shasta County Superior Court Case No. 171377 (Consol. with Case No. 172960)

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