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CO\$T Files Suit to Stop MMWD's Illegal Fees

Kentfield, CA: Coalition of Sensible Taxpayers v. MMWD: Complaint Filed in Marin Superior Court Alleges Multiple Violations of California Law & Requests Injunction

On August 20, 2019, government fee litigation specialist McNeill Law Offices filed suit in Marin Superior Court against the Marin Municipal Water District on behalf of lead plaintiff the Coalition of Sensible Taxpayers and four individual ratepayers. The complaint alleges that new and increased MMWD fees effective July 1, 2019 violate the California Constitution on multiple counts. Plaintiffs ask the Court for expedited hearing and a court order to stop the collection of fees that are inherently illegal and were illegally adopted.

The complaint's most prominent claim is that MMWD's new Capital Maintenance Fee (CMF) and increased Watershed Maintenance Fee (WMF) both use a seriously flawed methodology: meter size. This results in a large number of ratepayers being charged substantially more than the cost of service, which the law prohibits. Further, the obvious inequity of charging by meter size rather than usage caused public outcry, which the District sought to allay by adopting unlawful patches to the flawed fees. The resulting fee scheme is arbitrary and capricious – and illegal. It places an unfair burden on residential ratepayers broadly, especially those who are low water users or have large meters.

Proposition 218, California's Right to Vote on Taxes Act, allows water districts to impose rates and fees without voter approval *if* the rates/fees, uses, and process scrupulously meet specific criteria and conform to the law. CO\$T v MMWD alleges the District's latest fees and process violate Prop 218's requirements and as such should have been subject to a ratepayer vote.

The pleading alleges multiple legal violations falling into several categories. The most egregious violations include:

- The fee revenue exceeds the cost of service.
- CMF and WMF are not proportionately allocated to the individual properties; are arbitrary, capricious, and include an incoherent, illegal series of preferences.
- The District failed to follow legally-mandated procedures for fee adoption and made further changes after the fees were approved.

Additional violations include:

- Charges are being imposed for general governmental services (e.g., fire protection and watershed management) that require voter approval.
- The District lacks the authority to impose fire protection fees without approval from the voters *and* explicit permission from relevant local agencies.
- Excessive charges for large meters discourage installation of residential fire suppression systems, thereby increasing fire hazard.
- Charging fees based on meter size rather than usage incentivizes water waste.
- MMWD has failed to comply with state law requiring an annual accounting for connection fees and the use of such funds for capital projects.

Plaintiffs seek a Judgment requiring MMWD to cease charging the CMF and WMF; and come into compliance with other laws the suit alleges were violated.

COST is seeking donations to pay for its legal action protecting ratepayers from the adverse consequences of MMWD's allegedly illegal fees and process. COST hopes its suit will also have a sentinel affect, encouraging MMWD and other Marin agencies and jurisdictions to scrupulously comply with the law.

To donate to COST's legal fund, visit COSTMarin.org and click on Donate. Or send a check payable to Coalition of Sensible Taxpayers, P.O. Box 253, Kentfield, CA 94914.

About COST: The Coalition of Sensible Taxpayers is a nonpartisan, nonprofit organization dedicated to representing the interests of Marin taxpayers and ratepayers.

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