

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL

MINUTE ORDER

DATE: 03/30/2022

TIME: 11:26:00 AM

DEPT: C-67

JUDICIAL OFFICER PRESIDING: Eddie C Sturgeon

CLERK: Valerie Secaur

REPORTER/ERM:

BAILIFF/COURT ATTENDANT:

CASE NO: **37-2015-00023413-CU-MC-CTL** CASE INIT.DATE: 07/14/2015

CASE TITLE: **Daniel Patz vs City of San Diego [E-File]**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Misc Complaints - Other

APPEARANCES

The Court, having taken the trial under submission on 3/25/2022 and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, issues its Judgment as attached hereto and incorporated herein:

Eddie C. Sturgeon

Judge Eddie C Sturgeon

FILED
Clerk of the Superior Court

MAR 30 2022

By: V. Secaur

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO, CENTRAL DIVISION**

DANIEL PATZ and JOAN MANN
CHESNER on behalf of themselves as
individuals and all others similarly situated,

Plaintiffs/Petitioners,

v.

CITY OF SAN DIEGO, and DOES 1 through
200, inclusive,

Defendants/Respondents.

Case No. 37-2015-00023413-CU-MC-CTL

JUDGMENT

Certified Class Action

I/C Judge: Hon. Eddie C. Sturgeon
Dept.: 67
Complaint Filed: July 14, 2015
Trial Date: June 21, 2021

This above-entitled action was tried in two phases. The Court conducted the Phase I proceeding on June 21, 2021. The Court issued the Phase 1 Statement of Decision on September 13, 2021 (Phase 1 Statement of Decision) ruling in favor of the named petitioner/plaintiffs Daniel Patz and Joan Mann Chesner and the certified class (Petitioner Class) and against the Respondent City of San Diego (City). The Phase 1 Statement of Decision ruled that the City "failed to demonstrate by substantial evidence that the tiered water rates imposed by its 2013 and 2015 ratemakings are proportional to the cost of service attributable to each customer's parcel, as required by Proposition 218." [Phase 1 Statement of Decision at 29:11-14.]

The Court conducted the Phase 2 proceeding on the remedies to be awarded on March 25, 2022. The Court having read the Phase 2 briefs on the appropriate remedies and the matter having

JUDGMENT

1 been argued by counsel and submitted for decision, and GOOD CAUSE APPEARING
2 THEREFORE,

3 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

4 1. Proposition 218 (Article XIII D of the Constitution) governs City water rates charged to
5 the single family residential customer class, including the Petitioner Class. Pursuant to Proposition
6 218, the amount of the City's water charges "shall not exceed the proportional cost of the service
7 attributable to the parcel." Cal. Const. art. XIII D, § 6(b)(3).

8 2. The City bears the burden of proof to show that the tiered water rates charged to the
9 single family residential customer class do not exceed the proportional cost of the service
10 attributable to the parcel. Cal. Const. art. XIII D, § 6(b)(5).

11 3. The City failed to demonstrate by substantial evidence that the tiered water rates
12 imposed on the Petitioner Class by the City's 2013 and 2015 ratemakings did not exceed the City's
13 proportional cost of providing water service to each class member's parcel, as required by
14 Proposition 218. Cal. Const. art. XIII D, § 6(b)(3).

15 4. Judgment is hereby entered in favor of Plaintiffs Daniel Patz and Joan Chesner and a
16 Certified Plaintiff Class of "All single-family residential customers of the City of San Diego who
17 received water service after August 14, 2014" and against Defendant, City of San Diego.

18 5. The Court has calculated the amount of a refund based on the uniform rates (Alternative
19 2) of Plaintiffs' expert. The uniform rates are the total revenue requirement, divided by the total
20 projected water usage, as adjusted annually based on water rate increases.

21 6. The refund for overcharges is calculated using the methodology used by the City and
22 reflects the difference between the total cost to provide water service at the uniform rates during the
23 class period and the total amounts charged at tiered rates during the class period.

24 7. The Petitioner Class is awarded \$79,541,880 to refund the amount class members paid
25 for water in excess of the City's proportional cost of providing water service to each class
26 member's parcel from August 14, 2014 through March 31, 2022, with the amount to increase by
27 \$643,750 each month until the City imposes water rates consistent with the requirements of
28 California Constitution Article XIII D, section 6(b)(3).

1 8. The Petitioner Class is awarded Pre-judgment interest and Post-judgment interest as set
2 forth in California Civil Code 3287 and California Government Code section 970.1(c). Pre-
3 judgment interest shall accrue at a rate equal to the weekly average one year constant maturity
4 United States Treasury yield, but shall not exceed 7 percent per annum. Post-judgment interest
5 shall accrue at a rate equal to the weekly average one year constant maturity United States Treasury
6 yield at the time of the judgment plus 2 percent, but shall not exceed 7 percent per annum.

7 9. The City is ordered to impose future water rates consistent with the requirements of
8 California Constitution Article XIII D, section 6(b)(3), and may use tiers, a uniform rate, or any
9 other method, provided the City complies with California Constitution Article XIII D, section
10 6(b)(3).

11 10. The City is ordered to impose new water rates consistent with the requirements of
12 California Constitution Article XIII D, section 6(b)(3) by the later of (a) January 1, 2023, or (b) not
13 more than 9 months after the City fully exhausts its right to appeal the Judgment,

14 11. Plaintiffs and the Certified Plaintiff Class are the prevailing parties and entitled to costs.

15 12. This Court retains jurisdiction including jurisdiction to hear a request for attorney's fees
16 under the common fund doctrine and/or pursuant to Code of Civil Procedure section 1021.5, costs,
17 expenses, and service awards, if any, to enforce the Judgment, and to address pre-judgment interest
18 calculations. The Court grants an extension of time for good cause, including to promote
19 efficiency, to file a motion for attorney's fees, costs, expenses, and service awards. Any such
20 motion may be filed within 60 days after the expiration of the time for filing a notice of appeal or, if
21 a notice of appeal is timely filed, within 40 days of the date the Court of Appeal sends a copy of the
22 remittitur to this Court, whichever is later.

23 13. The parties have also agreed to extend the time for serving and filing any request for
24 attorney's fees, costs, expenses, and service awards consistent with the above, and have separately
25 filed that agreement with the clerk.

26 ///

27 ///

28 ///

14. The City is ordered to notify the class of this Judgment within 60 days after the expiration of the time for filing a notice of appeal or, if a notice of appeal is timely filed, within 40 days of the date the Court of Appeal sends a copy of the remittitur to this Court, whichever is later.

Dated: March 30, 2022


EDDIE C. STURGEON
Judge of the Superior Court