

**FILED**  
Superior Court of California  
County of Los Angeles

04/12/2022

Sherri R. Carter, Executive Officer / Clerk of Court

By:           M. Fregoso           Deputy

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES**

MIKEL RASTEGAR, individually and on behalf of )  
himself and all others similarly situated; HENRY )  
PORTER, JR., individually and on behalf of himself )  
and all others similarly situated; EMAN )  
KHOUBIAN, individually and on behalf of himself )  
and all others similarly situated; )

Plaintiffs, )

v. )

WEST BASIN MUNICIPAL WATER DISTRICT; )  
and DOES 1-100; )

Defendants. )

Case No. BC 684499

[Assigned for all purposes to Dept. 6,  
THE HON. ELIHU BERLE

**[PROPOSED] ORDER AND FINAL  
JUDGMENT GRANTING FINAL  
APPROVAL OF CLASS ACTION  
SETTLEMENT**

**Date: April 1, 2022**

**Time: 11:00**

**Dept: 6**

**Action Filed: November 22, 2017**

1 On November 22, 2017 Plaintiffs Henry Porter, Jr. and Eman Khoubian (collectively  
2 "Plaintiffs") brought this action individually and as representatives of a proposed Class of  
3 taxpayers challenging the legality and constitutionality of the West Basin Municipal Water  
4 District ("West Basin," the "District," or "Defendant") Standby Charge which was collected from  
5 each of the certified class members on their property tax bill by the Los Angeles County Assessor,  
6 and seeking a refund on behalf of themselves and "all others similarly situated" for these Standby  
7 Charges.

8 On February 26, 2018, Plaintiffs filed their First Amended Complaint to address the  
9 defenses alleged by counsel for the District and alleging that the assessment of Standby Charges  
10 on real property owners in West Basin's service area is unlawful because it violated (1) California  
11 Constitution Articles XIII and D (commonly known as proposition 218); (2) California  
12 Government Code section 53720 et seq. (commonly known as Proposition 62) and California  
13 Constitution Article XIII A (commonly known as proposition 13); (3) California Constitution  
14 Articles XIII C and D (commonly known as Proposition 26); and (4) Government Code sections  
15 54984 et seq. (the Uniform Standby Charge Procedures Act). The FAC also included a Demand  
16 for an Accounting.

17 After multiple mediations and months of extensive negotiations, the parties reached a  
18 proposed Settlement Agreement as filed with the Court on January 5, 2021. An Amended  
19 settlement was filed with the Court on May 28, 2021, and the hearing on the Motion for  
20 Preliminary Approval was held on November 22, 2021, and the Court Order of preliminary  
21 approval was entered by the Court on November 22, 2021 ("Settlement Agreement").

22 Plaintiffs moved the Court for an Order finally approving the Settlement, as reflected in the  
23 Settlement Agreement, as fair, reasonable and adequate. The Court held fairness hearings on the  
24 Settlement on March 15, 2022, at 10:00 am., and April 1, 2022, at 11:00 a.m. Notice was  
25 provided to Class Members of these hearings, and counsel for the parties were present for the  
26 hearing conducted by the Court.

27 The Court having fully considered the Motion for Final Approval of the Settlement as  
28 provided by Rules of Court, Rule 3.769(8) and (g), that memorandum of points and authorities in

1 support thereof, the declarations in support thereof the Settlement Agreement itself, relevant law,  
2 and the oral argument presented to the Court, and in recognition of the Court's duty to conduct a  
3 fairness hearing as to the good faith, fairness, adequacy, and reasonableness of any proposed  
4 settlement,

5 IT IS HEREBY ADJUDICATED, ORDERED AND DECREED as follows:

6 **I. DEFINITIONS**

7 The capitalized terms used in this Order shall have the meanings and/or definitions given  
8 to them in the Settlement Agreement, Exhibit A. In particular:

9 “Settlement Class” is defined as follows: All real property tax payers, whether individuals,  
10 businesses, trusts, partnership, corporate, or any other legal form, who, during the Class Period,  
11 paid the Standby Charge that is identified on their property tax bills as an “Assessment” and that is  
12 collected from property tax payers by the County of Los Angeles for the District.

13 “West Hollywood Settlement Subclass” is defined as follows: All real property tax payers  
14 in West Hollywood, California, whether individuals, businesses, trusts, partnership, corporate or  
15 any other legal form, who, during the Class Period paid the Standby Charge that is identified on  
16 their property tax bills as an “Assessment” and that is collected from property tax payers by the  
17 County of Los Angeles for the District, but who do not receive water from, and are not connected  
18 to, the West Basin water distribution system, either to receive recycled water for their real  
19 property or to receive potable water directly from the District.

20 “Current Payor Class Members” means Class Members who are current payors of the  
21 Standby Charge—that is, who are real property owners in the District’s service area at the time the  
22 Court entered the Preliminary Approval Order on November 22, 2021.

23 “Former Payor Class Members” means Class Members who are former payors of the  
24 Standby Charge—that is, who paid the Standby Charge during the Class Period but who are not  
25 real property owners in the District’s service area at the time the Court entered the Preliminary  
26 Approval Order on November 22, 2021.

27 KCC LLC was appointed by the Court as the “Settlement Administrator” in the  
28 Preliminary Approval Order entered on November 22, 2021.

1 **II. JURISDICTION**

2 The Parties and the Class Members have submitted to the jurisdiction of this Court for  
3 purposes of the Settlement. The Court has personal jurisdiction over the Parties and the Class  
4 Members and has subject matter jurisdiction to approve the Settlement and to release all claims  
5 and causes of action released in the Settlement.

6 **III. NOTICE TO CLASS MEMBERS**

7 The notice mechanisms implemented pursuant to the Settlement Agreement, which the  
8 Court approved in the Preliminary Approval Order on November 22, 2021, (i) constitute  
9 reasonable and best practicable notice, in that they are reasonably calculated, under the  
10 circumstances, to apprise putative Settlement Class Members of the pendency of the Action, the  
11 terms of the Settlement, their right to object or exclude themselves from the Settlement, their right  
12 to appear at the Final Hearing, and the fact that a failure to submit a valid and timely request for  
13 exclusions serves to submit the member to the Court's jurisdiction for settlement purposes;  
14 (ii) constitute due, adequate, and sufficient notice under the requirements of the United States  
15 Constitution, California law and other applicable laws and rules of court. Further, the Court has  
16 considered the Reports and Declarations provided by the Class Administrator as to the  
17 implementation of the Notice mechanisms and finds that the Notice requirements have been  
18 reasonably satisfied.

19 KCC received a list of 227,719 identified class members. KCC updated their addressing  
20 using the National Database. On December 15, 2021 KCC caused a postcard Notice to be printed  
21 and mailed to provide the Notice of settlement to 227,246 members on the updated address list.  
22 KCC received zero postcards returned. KCC mailed Notice packets to the class members. KCC  
23 received 2,517 Notice packages returned.

24 KCC authorized a press release. Notice of Settlement was published in various  
25 publications by KCC. KCC also posted information regarding the settlement on the Website  
26 created for the settlement. KCC also established a toll free number to communicate with the Class  
27 Members.

28

1 As of March 9, 2022, KCC received 179 timely filed claim forms. The Administrator is  
2 going to accept all of these claims.

3 No timely objections were received. However, one objection was received after the  
4 required postmark date. The objector was Dana Parks, who stated that the settlement is unfair to  
5 homeowners who owned the property for decades, paid the improper fees, and will soon retire.  
6 She objected, contending the Settlement does not benefit older class members but benefits former  
7 property homeowners who are allowed to share a common fund of \$1 million. She is concerned  
8 the settlement discriminates against older homeowners who will retire and down-size or won't live  
9 long enough to receive the full settlement benefit.

10 She further objected to the Attorney fees as unreasonable and requested the court reduce  
11 the fees to reflect work performed. She did not state why the fees are unreasonable.

12 The Court finds the objection is untimely.

13 While finding the objection untimely, the Court reviewed the objection and overruled it for  
14 the following reasons. The settlement represents a compromise as to disputed claims and the  
15 outcome constitutes recovery for alleged damages. The Settlement takes into account the risk of  
16 continued litigation and includes the risk of Plaintiffs failing to prevail as to future motions  
17 concerning certification and liability.

18 The objector does not make any specific claims as to why the fees are unreasonable.  
19 Therefore, the court does not have a basis on the objection and rules against it.

20 The Court makes an independent determination that the fees are reasonable. Therefore, the  
21 court overrules the objection.

#### 22 **IV. EXCLUSIONS**

23 The Court hereby finds that all Class Members have been adequately provided with an  
24 opportunity to exclude themselves from the Settlement Class by submitting a request for exclusion  
25 in conformance with the terms of the Settlement Agreement and this Court's Preliminary  
26 Approval Order. The Class Members who submitted valid requests for exclusion are listed in  
27 Exhibit G to the Declaration of Janeth Antonio re: Notice Procedures for Final Approval Hearing.  
28 They are: David & Linda Smith Trust; Andrea Velasquez; Mark R. Clemens; Nobuko Clemens;

1 GT Dave; Cynthia B. Dethlefsen & Cynthia B. Dethlefsen Trust; Edward Trujillo, Silvana  
2 Ferrarotti & Ferrarotti Trust; William A. Lee & Lee Family Trust; Amanda S. Metoyer & Amanda  
3 S. Metoyer Trust; Denise S. Mitchell; Munjko Zdenko Co. Trust & Munjko Trust; Joanne T.  
4 Newman & Joanne T. Newman Trust; Temple Shoshu Nichiren; Ralph Padilla; Ralph Padilla Sr.;  
5 Kwang C. Pak; Palgyi Trust & Bela B. and Diana L. Palagy, Trustees; Pranava Properties Inc.;  
6 Eloise U. Stolz & Eloise U. Stolz Trust; Ruth W. & Eu Tao; and Patricia Roberts. All Class  
7 Members who submitted valid requests for exclusion are not bound by this Final Order and  
8 Judgment. All other Class Members are part of the Settlement Class and shall be bound by this  
9 Final Order and Judgment and the Settlement Agreement.

10 **V. ORDER GRANTING FINAL APPROVAL TO CLASS ACTION SETTLEMENT,**  
11 **ATTORNEYS' FEES, AND PLAINTIFFS' SERVICE AWARDS**

12 As to the settlement itself, California Rule of Court, Rule 3.769, provides that the  
13 settlement of an entire class action or a cause of action in a class action, or as to a party, requires  
14 approval of the court. In determining whether to approve a class action, the Court has  
15 responsibility to prevent fraud or collusion in a settlement to protect the class members.

16 In determining whether to approve a class action, the court has responsibility to prevent  
17 fraud or collusion in a class settlement to protect the rights of the class members. The case of  
18 *Consumer Advocacy v Kintetsu* (2006) 141 Cal.App.4th 46 provides that a class action must be  
19 scrutinized by the Court and the Court must assure itself that the settlement is not part of fraud,  
20 over reaching or collusion and that the settlement taken as a whole is fair, reasonable and adequate  
21 for all concerned. The burden is on the proponent to the settlement to establish what is fair and  
22 reasonable. *Wershba v Apple Computer* (2001) 91 Cal.App.4th 245 and *7-Eleven v Southland*  
23 (2000) 85 Cal.4th 1135.

24 A presumption of fairness exists when the settlement was reached from arm's length  
25 bargaining, investigation and discovery. In this case, the court finds that class counsel and defense  
26 counsel are experienced in similar litigation, and the percentage of objectors is small. *Wershba* and  
27 *Dunk v Ford Motor* (1996) 48 Cal.4th 1794.

28

1           Nevertheless, the settlement amount did not make the class members whole as the  
2 *Wershba* court noted. A fair compromise for an amount less than the amount to make all class  
3 members whole is necessary under several conditions. Thus, even when the relief afforded by  
4 settlement is substantially narrower than it would be if the suits were successfully litigated, this is  
5 no bar for a class settlement because the public interest may be served by voluntary settlement for  
6 less than the amount of full recovery in the interest of avoiding further litigation.

7           First, we turn to whether the parties engaged in arm's length bargaining. All counsel  
8 representing the parties attended mediation in October 2019. Mediation at that time was  
9 unsuccessful. On May 1, and May 20, 2020 the parties attended two full mediation sessions with  
10 retired Judge Magistrate Suzanne Segal. The outline of a settlement was reached. The parties  
11 engaged in negotiation as to the remaining elements of the settlement and, on October 6, 2020, the  
12 settlement was executed by the parties.

13           The parties engaged in investigation up to the end of February 2020. There were 14  
14 individual Requests for Production of Documents, 2 sets of special interrogatories, supplemental  
15 interrogatories, several sets of Requests for Admissions, and the production, gathering and  
16 organization of 400,000 pages of documents. Additionally, many depositions were taken by Class  
17 counsel as to all District senior management, their expert, and their Standby Charge contractors.

18           Defense counsel engaged in written discovery and depositions of each of the initially  
19 named representative Plaintiffs.

20           In this case, class counsel is sufficiently experienced in litigation and engaged in  
21 appropriate discovery. The court concludes that the settlement is entitled to the presumption of  
22 fairness. The standby charge was assessed against approximately 240,000 property units annually.  
23 In each year, the Standby Charge generated between \$9 and \$10 million for the District for a total  
24 of approximately \$65 million in revenue during the class period.

25           Absent the settlement, the District intended to continue the Standby Charge. During the  
26 eight-year period covered by the initial prospective relief component of the settlement, if the  
27 settlement is not approved, the District will collect \$75 to \$80 million, and also collect \$126  
28 million in Standby Charges during the subsequent 12 years.

1 The settlement contemplates the reduction and eventual elimination of the Standby Charge.  
2 It must be noted that liability is greatly contested herein. If the settlement is not approved, the  
3 class members might not receive any recovery.

4 Also, a present value of the savings as estimated by class counsel relying on the 2020-2021  
5 District Budget estimates the annual standby charge revenue at \$10 million and the present value  
6 of the savings for the reduction and elimination of the Standby Charge that will be obtained by the  
7 settlement class is \$108.3 million.

8 The investigation and discovery have been sufficient to allow counsel for the parties and  
9 the parties to act intelligently. Based upon the providing of notice to the Members of the Class, the  
10 due process provided by the provision of a final approval hearing, the work of KCC to provide  
11 written notice, the receipt of 179 claims, the lack of timely objections, and the sole objector being  
12 late, the Court finds that the Settlement was and is fair and reasonable.

13 As far as attorney's fees are concerned, counsel request \$9 million in fees. The settlement  
14 provides for Attorney fees and costs to class counsel of \$9 million plus costs for arbitration fees of  
15 \$11,400 pursuant to Code of Civil procedure section 1021.5 and lodestar.

16 Counsel have provided lodestar information of incurring 4,484.9 hours on this litigation at  
17 various hourly rates for a total lodestar of \$3,434,530.00. That would require a multiplier of 2.62  
18 to yield the fee request upon the lodestar.

19 The hourly rates are within the prevailing wage in the community. Based upon  
20 consideration of the quality of representation, acknowledgment of the complexity of the issues,  
21 identifying the result obtained through counsels' time and effort, the risks of the continued  
22 litigation to the class and counsel's scheduling of time and effort, the court awards fees in the  
23 amount of \$9 million plus \$11,400 for arbitration fees.

24 The administrator, KCC, approved all 179 claims received for a total claims valuing  
25 \$75,305.32.

26 The cost of Administration plus approved claims were \$203,644.98. The court awards that  
27 amount to KCC.

28



1 Representative plaintiff Henry Porter rendered services for the case and class. Based upon  
2 the work provided by Mr. Porter in connection with his history of involvement and the work  
3 performed pursuing this matter he is awarded \$20,000 as an enhancement payment.

4 Representative Eman Khoubian's evidence concerning the work that he performed to reach  
5 resolution of the case justifies a court award enhancement of \$10,000.

6 **VI. DISMISSAL**

7 The Court orders that Rastegar et al. v. West Basin Municipal Water District, LASC Case  
8 No. BC 684499, is hereby dismissed with prejudice, and without any award of attorneys' fees or  
9 costs to any party except as set forth in this Final Order and Judgment.

10 **VII. RELEASE**

11 The Court references and confirms that the release in the Settlement Agreement is  
12 approved. As a result, the RELEASED CLAIMS identified in the Settlement Agreement are  
13 hereby dismissed with prejudice against the RELEASED PARTIES. The Court orders that the  
14 RELEASED PARTIES shall be released and forever discharged from all RELEASED CLAIMS,  
15 and PLAINTIFFS and all CLASS MEMBERS and their heirs, executors, estates, predecessors,  
16 successors, assigns, agents and representatives shall be deemed to have jointly and severally  
17 released and forever discharged the County and the Related Parties from any and all RELEASED  
18 CLAIMS, whether known or unknown, arising from the facts alleged in the Complaint, and shall  
19 be fully and forever barred and enjoined from instituting or prosecuting in any court or tribunal,  
20 either directly or indirectly, individually or representatively, any and all RELEASED CLAIMS  
21 against the County or any of the Related Parties.

22 The RELEASED CLAIMS specifically include any and all claims, demands, rights,  
23 damages, obligations, suits, and causes of action of every nature and description whatsoever,  
24 ascertained or unascertained, suspected or unsuspected, existing or claimed to exist, including both  
25 known and unknown claims, of the PLAINTIFFS and all CLASS MEMBERS that were or could  
26 have been brought against the West Basin Municipal Water District and/or their Related Parties, or  
27 any of them, in the First Amended Complaint, from the beginning of the Class Period to the date  
28 of entry of the Preliminary Approval Order, arising from the matters alleged in the Complaint,

1 including but not limited to charging, billing, or collection activity related to the Standby Water  
2 Charge.

3 Under California Code of Civil Procedure sections 578, 579, and 664.6, the Court, in the  
4 interests of justice, there being no just reason for delay, expressly directs the Clerk of the Court to  
5 enter this Final Judgment and Order, and hereby decrees, that upon entry, it be deemed as a final  
6 judgment with respect to all claims by members of the Settlement Class against the West Basin  
7 Municipal Water District and the Released Parties, in accordance with the terms of the Settlement  
8 Agreement.

9 **VIII. CONTINUING JURISDICTION AND ORDER TO SHOW CAUSE**

10 Pursuant to Code of Civil Procedure 664.6, without affecting the finality of this Final  
11 Order and Judgment, this Court reserves exclusive and continuing jurisdiction over the Settlement  
12 and the Settlement Agreement, including the administration and consummation of the Settlement  
13 Agreement.

14 The Court will set an Order to Show Cause to Comply with the Judgment for December 9,  
15 2022 at 8:30 a.m. No later than December 2, 2022, the parties shall submit a joint report as to  
16 compliance with the terms of the Judgment, as well as a declaration from the Settlement  
17 Administrator with regard to the distribution of funds and other actions taken in compliance with  
18 the terms of the Judgment.



**Elihu M. Berle**

19  
20 Dated: \_\_\_\_\_ I EFGGG

By: Elihu M. Berle / Judge  
The Hon. Elihu Berle  
JUDGE OF THE SUPERIOR  
COURT

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, Devin Brown, am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: **1200 Aviation Boulevard, Suite 202, Redondo Beach, California 90278.**

On **April 8, 2022** I served the foregoing documents described as **NOTICE OF RULING ON MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND MOTION FOR ATTORNEY FEES; [PROPOSED] ORDER AND FINAL JUDGMENT GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT** on interested parties in this action by electronic mail.

MATTHEW BENEDETTO  
ALIX PISANI  
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*Attorneys for Defendant*  
*WEST BASIN MUNICIPAL WATER DISTRICT*

(ELECTRONIC MAIL)

By transmitting the document by electronic mail to the electronic mail address as stated on the service list.

Executed on **April 8, 2022** at Redondo Beach, California.

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

*Devin Brown*  
Devin Brown