

**SUMMONS
(CITACION JUDICIAL)**



FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ENDORSED-FILED

JAN 06 2017

CLERK OF MENDOCINO COUNTY
SUPERIOR COURT OF CALIFORNIA
TRACY JOHNSON

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**
CITY OF UKIAH

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**
HOWARD JARVIS TAXPAYERS ASSN., et al.

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): **MENDOCINO SUPERIOR COURT**
100 North State Street
Ukiah, CA 95482

CASE NUMBER:
(Número del Caso):

SCUK-CVG-17-68588

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
BRITTANY A. SITZER, ESQ., 921 11th Street, Suite 1201, Sacramento, CA 95814, (916) 444-9950

CHRISTOPHER D. Ruhl

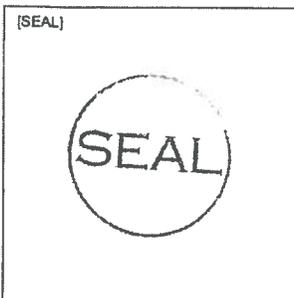
Clerk, by
(Secretario)

TRACY JOHNSON

, Deputy
(Adjunto)

DATE:
(Fecha) **JAN 06 2017**

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

- 1. as an individual defendant.
- 2. as the person sued under the fictitious name of (specify):

- 3. on behalf of (specify): **City of Ukiah**
 under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)

- 4. other (specify): **416.50 Public Entity**
- 5. by personal delivery on (date):

1 JONATHAN M. COUPAL, State Bar No. 107815
TREVOR A. GRIMM, State Bar No. 34258
2 TIMOTHY A. BITTLE, State Bar No. 112300
BRITTANY A. SITZER, State Bar No. 304313
3 Howard Jarvis Taxpayers Foundation
921 Eleventh Street, Suite 1201
4 Sacramento, CA 95814
(916) 444-9950

5 Attorneys for Plaintiffs
6

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JAN 06 2017

CLERK OF MENDOCINO COUNTY
SUPERIOR COURT OF CALIFORNIA

~~TRACY JOHNSON~~

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF MENDOCINO
10

11 HOWARD JARVIS TAXPAYERS ASSN.;)
12 EDWARD HAYNES; DAVID MINSINGER;)
DOUGLAS JOHNSON; IVAN SHIPLEY;)
13 KATHY SHIPLEY; BRUCE POMA;)
RANDY BERGLUND; DONALD DAMP)

14 Plaintiffs,

15 v.

16 CITY OF UKIAH,

17 Defendant.
18

No.

SCUK- CVG- 17-68588

**COMPLAINT FOR DECLARATORY
RELIEF (CCP § 1060)**

19
20 PARTIES

21 1. Plaintiff Howard Jarvis Taxpayers Association ("HJTA") is a nonprofit public benefit
22 corporation, comprised of over 200,000 California taxpayers, organized and existing under the
23 laws of California for the purpose, among others, of advocating the rights of taxpayers and
24 engaging in civil litigation on behalf of its members and all California taxpayers to enforce those
25 rights. HJTA has members, including plaintiffs, who reside in the City of Ukiah, who voted
26 against Measures Y and Z and who would be subject to its provisions if enforced.

27 2. Plaintiff Edward Haynes is a resident and registered voter in the City of Ukiah.

28 3. Plaintiff David Minsinger is a resident and registered voter in the City of Ukiah.

1 4. Plaintiff Douglas Johnson is a resident and registered voter in the City of Ukiah.

2 5. Plaintiff Ivan Shipley is a resident and registered voter in the City of Ukiah.

3 6. Plaintiff Kathy Shipley is a resident and registered voter in the City of Ukiah.

4 7. Plaintiff Bruce Poma is a resident and registered voter in the City of Ukiah.

5 8. Plaintiff Randy Berglund is a resident and registered voter in the City of Ukiah.

6 9. Plaintiff Donald Damp is a resident and registered voter in the City of Ukiah.

7 10. Defendant City of Ukiah ("City") is a general law city. The City may sue and be
8 sued under Government Code section 945.

9 CAUSE OF ACTION

10 11. The City had two local propositions on the November 2016 ballot, Measures Y and
11 Z. Measure Y proposed a citywide half-cent sales tax increase, Measure Z dedicated the
12 revenue to street maintenance

13 12. Pursuant to Article XIII C of the California Constitution, all taxes are either general
14 taxes or special taxes. Special taxes require two-thirds voter approval, whereas general taxes
15 require only majority approval. "'Special tax' means any tax imposed for specific purposes,
16 including a tax imposed for specific purposes, which is placed into a general fund."

17 13. Measure Y accompanied by its companion Measure Z together proposed a special
18 tax subject to article XIII C's supermajority approval requirement. Measure Y, the tax
19 component of this package, received 2,905 yes votes, or 51.50%, which counts as more than
20 a majority, but less than the necessary two-thirds approval.

21 14. The ballot question for Measure Y read as follows:

22 Measure Y

23 "Shall Ordinance No. 1165 be adopted to impose as a general tax an additional
24 transaction (sales) and use tax of one-half of one percent within the city limits of
25 the City of Ukiah to fund essential City services, including street repair and
26 maintenance? Such tax increase is estimated to raise \$2,470,000 annually at a
27 rate of .5%. The duration of the tax will continue unless or until the tax is
28 repealed by majority vote in a municipal election."

1 15. Companion Measure Z designated the revenue collected from Measure Y to be
2 spent on a specific purpose. The ballot question for Measure Y read as follows:

3 Measure Z

4 "Shall *street repair and maintenance and related public infrastructure*
5 *improvements be the exclusive use* of the revenues from an additional .5% sales
6 tax in the City of Ukiah and add to and not replace current spending for street
7 maintenance and repair?" (Emphasis added.)

8 16. The two ballot measures were presented as a set, and additional election materials
9 support a finding that the two measures are so closely related and inseparable that they
10 constitute, in the words of Article XIII C, "a tax imposed for specific purposes which is placed
11 into a general fund."

12 17. Because the two measures were presented as a set, the ballot argument in support
13 of Measure Y, signed by and written at the direction of the Ukiah City Council, assured voters
14 that "YES on Measure Y will provide a reliable revenue source *dedicated to* the repair and
15 maintenance of the streets." (Emphasis added.)

16 18. The City Attorney's impartial analysis for Measure Z referenced the coupling of the
17 two measures, and the Measure Y ballot argument as having legal significance: "In the ballot
18 argument in favor of measure Y, the City Council has stated that if both measures Y and Z are
19 approved, it has a plan to improve the condition of City streets and maintain those improved
20 conditions over time. Such ballot argument statements are considered evidence of the City
21 Council's intent in placing measure Y on the ballot."

22 19. On or about December 7, 2016, the City through its City Council adopted a
23 resolution declaring the results of the November 8, 2016, municipal general election. The
24 Council declared that Measures Y and Z passed, despite the lack of a two-thirds vote.

25 20. An actual controversy exists between the parties in that plaintiffs believe the tax
26 increase proposed by Measures Y and Z was dedicated to specific purposes and therefore
27 required two-thirds voter approval to pass; whereas the City believes only a simple majority was
28 required.

1 21. Plaintiffs desire a judicial determination of the rights and duties of the parties,
2 including a declaration as to whether the tax increase proposed by Measures Y and Z passed
3 with less than a two-thirds vote.

4 22. Plaintiffs have no other adequate, speedy remedy at law.

5 WHEREFORE, plaintiffs pray for judgment as follows:

6 PRAYER

7 Based on the foregoing allegations, plaintiffs pray for judgment against defendant City
8 of Ukiah as follows:

- 9 1. For a declaration that the tax increase proposed by Measures Y and Z was a
10 special tax subject to Article XIII C's supermajority vote requirement;
- 11 2. For a declaration that the tax increase proposed by Measures Y and Z , having
12 received less than two-thirds voter approval, was defeated;
- 13 3. For a declaration that measures such as Y and Z, as a scheme to circumvent
14 supermajority requirements, are prohibited by the state constitution;
- 15 4. For costs of suit, including attorney fees; and
- 16 5. For such other relief as the Court considers just and proper.

17 DATED: January 4, 2017.

18 Respectfully submitted,

19 JONATHAN M. COUPAL
20 TREVOR A. GRIMM
21 TIMOTHY A. BITTLE
22 BRITTANY A. SITZER

23 
24 _____
25 Brittany A. Sitzer
26 Counsel for Plaintiffs
27
28

Superior Court of California, County of Mendocino



ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION PACKET

Pursuant to California Rule of Court 3.221, the person who files a civil lawsuit (plaintiff) **must** include the Alternative Dispute Resolution (ADR) Information Packet with the complaint when serving the defendant. Cross complainants **must** serve the ADR Information Packet on any new parties named to the action.

The Court **strongly encourages** the parties to use some form of ADR before proceeding to trial. You may choose ADR by:

- Contacting the ADR Coordinator; or
- Indicating your preference on Case Management Form CM-110; or
- Agree to ADR at your initial Case Management Conference.

ALTERNATIVE DISPUTE RESOLUTION **INFORMATION GUIDE**

There are Alternatives to Going to Trial

Did you know that most of all civil cases filed in court are resolved without going to trial? Many people use processes other than trial to resolve their disputes. These alternative processes, known as Alternative Dispute Resolution (ADR), are typically less formal and adversarial than trial, and many use a problem-solving approach to help the parties reach agreement.

What are the ADR Options?

The most commonly used ADR processes are Mediation, Arbitration, Neutral Case Evaluation, and Settlement Conferences.

◆ Neutral Case Evaluation

In Neutral Case Evaluation, each party gets a chance to present the case to a neutral person called an “evaluator.” The evaluator then gives an opinion on the strengths and weaknesses of each party’s evidence and arguments and about how the dispute could be resolved. Although the evaluator’s opinion is not binding, the parties typically use it as a basis for trying to negotiate a resolution of the dispute. Even if not successful in resolving the case, Neutral Case Evaluation can lead to use of other ADR procedures, such as arbitration or mediation, especially when undertaken early in the litigation. Neutral Case Evaluation may be most useful in cases that involve technical issues that require special expertise to resolve or in cases that the only significant issue is the amount of damages.

◆ Mediation

Mediation is a voluntary and confidential process where a trained impartial mediator helps parties in conflict to communicate respectfully and effectively with each other. The mediator facilitates communication by helping the parties define issues, remove communication obstacles, and explore potential solutions. Mediation empowers people to reach informed, acceptable, and realistic agreements.

Mediation may be particularly useful when parties have a relationship they want to preserve. So when family members, neighbors, or business partners have a dispute, mediation may be the ADR process to use. Mediation is also effective when emotions are getting in the way of resolution. An effective mediator can listen to the parties and help them communicate in an effective and non-confrontational manner.

◆ Arbitration

In arbitration, a neutral person called an “arbitrator” hears arguments and evidence from each side and then decides the outcome of the dispute. Arbitration is typically less formal than a trial, and the rules of evidence may be relaxed.

Arbitration may be either “binding” or “non-binding.” Binding arbitration means the parties waive their right to a trial and agree to accept the arbitrator’s decision as final. Non-binding arbitration means that the parties are free to request a trial if they reject the arbitrator’s decision.

Arbitration is best for cases where the parties want another person to decide the outcome of their dispute for them but would like to avoid the formality, time, and expense of a trial. It may also be appropriate for complex matters where the parties want a decision-maker who has training or experience in the subject matter of the dispute.

◆ **Settlement Conferences**

In Settlement Conferences, the parties and their attorneys meet with the judge or a neutral person called a “settlement official” to discuss possible settlement of their dispute. The judge or settlement official does not make a decision in the case but assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement. Settlement Conferences are appropriate in any case where settlement is an option. Mandatory Settlement Conferences, ordered by the Court, are often held near the date a case is set for trial.

ADR Options Available at Mendocino Superior Court

Mediation

Parties may voluntarily participate in mediation at any stage of litigation, without court referral, by contacting the ADR Coordinator.

◆ **Court Referred Mediation**

The Court may refer parties to mediation in any civil case, with the exception of family cases. Once the referral has been made, parties may opt to use a Court Panel Mediator or to hire a private mediator. If the parties elect to use a Court Panel Mediator, the a qualified Court Panel Mediator will be assigned through the ADR Coordinator. With Court Panel Mediations, there will be no charge to the parties for the first two (2) hours. If the parties choose to continue the mediation after the two (2) hours, the mediator may charge his or her regular fee.

What are the advantages of Mediation?

◆ **Privacy**

All discussions during the mediation are confidential.

◆ **Parties Reach Their Own Solution**

The mediator will not impose a solution on the parties. The solution is based on the interests and needs of the parties.

◆ **No Cost or Reasonable Cost**

The cost of participating in mediation is minimal compared to the cost of litigation – or the cost of doing nothing. There is no cost to parties for mediations conducted by a member of the Court Civil Mediation Panel. If parties opt to use a private mediator, the Civil Mediation Program Coordinator will help them find a mediator.

◆ **Flexible Scheduling**

Mediations can be scheduled to accommodate all parties and their attorneys.

◆ **Clear, Respectful Communication**

Mediation can provide the opportunity for understanding or reconciliation.

◆ **Quicker Resolution**

Parties are often able to resolve their conflict in one session, though more sessions will be scheduled as needed.

◆ **Effective**

Parties know more about the conflict than anyone else does. Developing their own agreements offers satisfaction and success.

◆ **Agreement Options**

Any written agreement made in the course of mediation will be treated as a legally enforceable agreement.

What are the disadvantages of Mediation?

◆ **You may go to court anyway.**

If you can not resolve your dispute using ADR, you may still have to spend time and money resolving your lawsuit through the courts.