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Cities Entitled to Pre and Post Judgment Interest for Tax Administration Fees Improperly Calculated and Withheld by County

Seven cities brought a lawsuit against a county over the calculation of a fee that the county charges for the collection and distribution of property taxes to each city. A trial court entered judgment in favor of the cities and ordered the county to pay prejudgment and postjudgment interest. The court of appeal held that the trial court did not err in awarding prejudgment and postjudgment interest but that a new law changes the rate of interest as of January 1, 2014. (*City of Clovis v. County of Fresno* (January 16, 2014, F060148) --- Cal. Rptr.3d ----, Cal.App. 5 Dist.).

The City of Clovis (Clovis) and six other cities sued the County of Fresno (County) on grounds essentially identical to those presented in *City of Alhambra v. County of Los Angeles* (2012) 55 Cal.4th 707, which held that Los Angeles County used an unlawful method of calculating the property tax administration fee (PTAF) charged by the county to the cities when the county collected and distributed property tax. Here, the trial court similarly held that County's method of calculating the PTAF was unlawful and ordered County to refund the difference to Clovis and the other cities for each year that County had applied the erroneous formula. The trial court also awarded the cities prejudgment interest and postjudgment interest at the rate of seven percent per annum.

The County appealed the trial courts decision asserting that no law authorized awards for prejudgment and postjudgment interest in connection with such a determination. The trial court applied existing law and set the rate for both prejudgment and postjudgment interest at seven percent. On September 30, 2013, the Legislature amended Civil Code section 3287 to change the way prejudgment and postjudgment interest must be calculated when a claim is made against a public entity. The appellate court noted that under the new law prejudgment interest accrues at a rate equal to the specified treasury yield, and postjudgment interest accrues at the same rate plus two

percent, with neither rate to exceed seven percent. The new provision went into effect on January 1, 2014.

The court of appeal held that the law authorizes awards of both prejudgment and postjudgment interest against County. Prejudgment interest is authorized under Civil Code section 3287, subdivision (a), which authorizes a court to award prejudgment interest on damages in an action against a county. The California Constitution at article XV, section 1, authorizes the trial courts award of postjudgment interest and provides that, in absence of the setting of a rate by the Legislature, the rate shall be seven percent per annum. The Supreme Court has held that a court may award postjudgment interest for judgments against local government entities.

However, the court of appeal held that the new provision of Civil Code section 3287 is applicable even though it became effective after the events underlying the cause of action took place. The new law is a remedial or procedural statute and will be in effect when the judgment becomes final. Where a change in a statutory interest rate applies to a case that is pending on the date the change becomes effective, the new rate applies to the interest that accrues on or after the effective date. The former rate must be applied to the interest that accrued before the effective date of the change. The court of appeal modified the trial courts judgment to reflect that, effective January 1, 2014, the rate of postjudgment interest on the judgment in this action is reduced from seven percent to 2.39 percent," the current U.S. treasury yield rate of .39% plus 2%. It affirmed the judgment of the trial court in all other respects.

Questions

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