

Daily Journal

Class certified in Chula Vista tax lawsuit

By Alexandra Schwappach, Daily Journal Staff Writer
September 19, 2012

A state court judge has certified a class of more than 100,000 plaintiffs who claim the city of Chula Vista illegally taxed their mobile phone service.

San Diego County Superior Court Judge Richard E.L. Strauss certified the class Friday.

San Diego-based Casey Gerry Schenk Francavilla Blatt & Penfield LLP and Newport Beach-based Capretz & Associates teamed up last year to file the lawsuit against the city on behalf of the plaintiffs.

The lawsuit is set to go to trial on Jan. 18.

Certifying the case as class action allows all residents who have paid the tax to seek restitution collectively instead of each individual filing a separate refund claim with the city, Casey Gerry attorney Jeremy K. Robinson said.

City residents argue that the tax, introduced in 1970 and charged against telephone and electricity users, was automatically added to monthly charges on their utilities bill. As a result, many residents were unaware they were paying the tax, their attorneys allege.

"The certification of a class action lawsuit not an indication of any kind about the merits of the lawsuit," said Baker & McKenzie LLP attorney Colin H. Murray, one of the attorneys representing the city. "Mobile phones as they existed in the 1970s, when the ordinance was enacted, are radically different than what we use today. We've been studying that issue as it pertains to this case."