

Backer of SWP must pay

By Dave Wilcox
Telegram-Tribune

A man who went to court to keep a State Water Project referendum off San Luis Obispo's ballot must pay \$22,000 worth of legal fees to his opponent's lawyer.

Temporary Judge Charles Picutta ordered Ray Ball to pay the attorney who represented Citizens for Open Government.

The local group successfully blocked Ball's attempt to prevent voters from deciding whether the city should sign up for state water.

Picutta awarded the fees to Santa Barbara attorney Jana Zimmer under a state law that allows a private attorney to collect for work done in the public's interest.

"The opportunity afforded the citizens of San Luis Obispo to vote for or against state water was a significant benefit," Picutta wrote in his Dec. 9 ruling.

San Luis Obispo city officials have already agreed to pay Citizens for Open Government \$5,000, according to court records.

Richard Schmidt, an anti-state water activist and Citizens' treasurer, said Picutta's ruling sends a positive message.

"It places a high value on private attorneys acting in a public capacity."

It says, "Hey, it's important (for lawyers) to take risks."

Ball said he didn't plan to appeal the ruling.

"What for? The law is the law."

Ball said he believes the city should foot the entire bill, but said he's prepared to pay Zimmer.

"I wish other people would stand to their obligation as I always have."

An opinion from City Attorney Jeff Jorgensen and an expert consultant led him to file the lawsuit, said Ball.

Picutta ruled against Ball in August, finding that the City Council's April 21 decision to take 3,000 acre-feet from the State Water Project annually was subject

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to voter referendum.

Last month voters rejected tapping into the project.

Picutta last week awarded Zimmer \$26,960, but subtracted the \$5,000 already paid by the city in tallying the amount owed by Ball.

Of the total award, \$17,975 is based on Zimmer's claim she worked almost 103 hours on the case at \$175 an hour.

his client was acting in the public's interest by bringing the case to court.

"Since Ball entered this litigation to advance the public interest, it would be unjust and unfair to award attorney's fees against (a) private citizen," wrote Belsher in court papers opposing Zimmer's motion.

He tied Ball's action closely to the city's well-known belief that the referendum was on the ballot illegally. That stance was supported by an expert consultant, Dan Curtain, hired

by the city.

"Had there been no opinion of the city attorney and Curtain inviting Ball's action," wrote Belsher, "this lawsuit most probably would never have been filed."

Belsher pointed out that the legal fees award is not punitive.

His client, however, said he felt the sting of the decision.

"I think the ruling is closer to being a punishment than" simply an award, said Ball.

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