

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF MENDOCINO
CLERK'S DOCKET & MINUTES**

Judge: **HONORABLE JEANINE NADEL** Clerk: SAMUEL DELGADO/CHRISTY RECENDIZ
Reporter: TRISHA HATHAWAY-LINK Bailiff: DOUG JOHNSON
Interpreter: # Date: **08/23/2022 9:00 AM**
Language: Sworn Cert/Reg with oath on file as stated by the Court

SCUK-CVED-2020-74939

MENDOCINO RAILWAY,

Petitioner,

vs.

**CALIFORNIA PUBLIC UTILITIES COMMISSION;
MENDOCINO COUNTY TREASURER-TAX COLLECTOR;
JOHN MEYER; REDWOOD EMPIRE TITLE COMPANY
OF MENDOCINO COUNTY; SHEPPARD INVESTMENTS;
MARYELLEN SHEPPARD,**

Respondent.

NATURE OF PROCEEDINGS: *TRIAL: COURT

Appearances:

Glen Block counsel for Plaintiff
Paul Beard Counsel for Plaintiff
Steven Johnson for John Meyer
John Meyer defendant
Kennan Beard for Sierra Railway Company
Robert Pinoli representative for Mendocino Railway

Exhibit books are presented with exhibits pre-marked.

Court notes matter comes on calendar for Bifurcated court trial. Court notes Trial Briefs have been received and Extensive Request for Judicial Notice. Court notes Motion in Limine was filed by defendant.

Counsel Brina Blanton addresses the court indicating that the county will not be participating in the trial.

Court makes an inquiry of Counsel Block as to testimony of Mr. K. Beard- Counsel provides statement on the record as to recipient and expert testimony to be provided to the court.

Counsel Johnson presents the court a supplemental Request for Judicial Notice.

Counsel Johnson presents argument as to Motion in Limine and provides additional documents to the court regarding MIL.

Counsel Johnson presents argument for the court not to allow Mr. Beard to testify.

Counsel Block present responsive argument stating they can call witnesses out of order to allow Mr. Beard to be deposed by Counsel Johnson, if not

Court will not allow Mr. Beard to testify at this time but if at the conclusion of the trial the court feels the court needs more information, the court will allow Counsel Johnson to depose Mr. Beard.

Counsel Block addresses Notice of Related cases 21CV00850.

Court states the City of Fort Bragg has filed an opposition and the court is not inclined to allow the judicial notice as the City of Fort Bragg is not present today.

Counsel Beard presents argument in support.

Counsel Johnson opposes and presents argument.

Counsel Beard present additional comment.

Court will not allow without the City of Fort Bragg being present, the court will have a hearing, so the City of Fort Bragg can present their argument.

Counsel Block presents opening statement on behalf of the plaintiff.

Counsel Johnson presents opening statement on behalf of the defendant.

Plaintiff present case in chief:

Counsel Block calls witness, Robert J. Pinoli is sworn for direct examination. (10:30 a.m.)

Plaintiff's Exhibit 1 - Mendocino Railway – Map – identified.

Plaintiff's Exhibit 3 - Mendocino Railway - Map and Photos of Facilities in Willits– identified.

Plaintiff's Exhibit 2 - Subject Property - Aerial Photo– identified.

Recess 11:00 – 11:15 am.

Exhibit's 1 & 3 are moved and received into evidence.

Further direct examination of **Witness Robert J. Pinoli** by Counsel Block. (11:15 a.m.)

Court is in recess @ 11:55 and will resume at 1:30 p.m.

Court is reconvened at 1:30 p.m.

All parties are present as indicated above.

Court states it has been brought to the courts attention that there are parties that are wanting to watch the trial and the court will allow zoom to be on but will mute and shut off the camera for the parties observing the proceedings.

Counsel Block objects to proceedings being displayed by audio or video or both stating it is not in accordance with the Code of Civil Procedure and runs risks of improper recording or used by the press.

Court states the court has process in place for parties appearing in their cases which they must file the appropriate request and be approved by the court.

Witness Robert J. Pinoli resumes the witness stand, previously sworn, for continuation of direct examination by Counsel Block on behalf of the plaintiff. (1:34 p.m.)

Plaintiff's Exhibit 9 - California Western Railroad -Local Passenger Tariff No. 3-Q (Eff. April 1, 1993) – identified – admitted into evidence.

Plaintiff's Exhibit 10 - Mendocino Railway - Commute Fares (2014, 2016, 2017) – identified – admitted into evidence.

Plaintiff's Exhibit 8 - Mendocino Railway / California Western Railroad --Freight Tariff CWR 9500 (Eff. January 1, 2008) – identified – (pages 8-9 to 8-42 have been removed as they are duplicate of other exhibits) - admitted into evidence.

Plaintiff's Exhibit 6 - Mendocino Railway / California Western Railroad - Freight Tariff CWR 9500 (Eff. January 1, 2022) – identified – admitted into evidence.

Plaintiff's Exhibit 7 - California Western Railroad - Local Passenger Tariff No. 3-R (Eff. January 2022) – identified – admitted into evidence.

Plaintiff's Exhibit 5 - Mendocino Railway - Schedules of Assets – identified – received into evidence.

Plaintiff's Exhibit 18 - California Secretary of State - Statement of Information re Mendocino Railway (2/28/22) – identified – received into evidence.

Plaintiff's Exhibit 18 - Mendocino Railway Articles of Incorporation (1/26/2004) - identified – received into evidence.

Plaintiffs Exhibit 19 - Mendocino Railway Articles of Incorporation (1/26/2004) - identified – received into evidence.

Plaintiff's Exhibit 20 - Notice of Exemption, Mendocino. Railway, FD34465 (Surface Transportation Board - filed 3/12/2004) - identified – received into evidence.

Recess 3:03 pm – 3:21 pm.

Witness Robert J. Pinoli resumes the witness stand, previously sworn, for continuation of direct examination by Counsel Block on behalf of the plaintiff.

Plaintiff's Exhibit 12 - CPUC 12/7/18 Letter to Mendocino Railway – identified.

Counsel refers to Exhibit 20 in examination. **Exhibit 20 is received into evidence.**

Plaintiff's Exhibit 21 - Federal Register (Vol. 69, No. 69 /April 9, 2004 / Notices) - Re; Mendocino Railway - Acquisition Exemption -Assets of the California Western Railroad – identified – **received into evidence.**

Returning to **Plaintiff's Exhibit 12 - CPUC 12/7/18 Letter to Mendocino Railway.**

Plaintiff's Exhibit 11 - CPUC Website — Listing of Regulated California Railroads – identified.

Counsel moves Exhibit 11 & 12 into evidence and is objected - Hearsay by Counsel Johnson.

Counsel Block presents subpoenaed records from the California Railroads Regulations to the court.

Counsel Johnson requests to file an objection and presents argument.

Counsel Block presents argument.

Court takes judicial notice and will **admit Exhibit 11 & 12 into evidence** and will give them whatever weight as needed.

Plaintiff's Exhibit 13 - CPUC Railroad Safety Inspection Reports (2019 & 2021) – identified – **received into evidence.**

Plaintiff's Exhibit 14 - CPUC Inspection Report (2021) – identified - – **received into evidence.**

Plaintiff's Exhibit 15 - CPUC - Declaration of Custodian of Records (7-6-22) is moved into evidence and reserved as Counsel Johnson has not seen the entire exhibit and will be allowed time to do so.

Plaintiffs Exhibit 23 - Business License Certificate - City of Fort Bragg (Exp. 12/31/2022) – identified.

Counsel Block moves Exhibit into evidence. Objection by Counsel Johnson. Court will receive Exhibit 23 into evidence and will give them whatever weight as needed.

Plaintiffs Exhibit 24 - Business License Certificates – City of Fort Bragg (2009 - 2021) – identified. Counsel Block moves Exhibit into evidence. Objection by Counsel Johnson. Court will receive Exhibit 23 into evidence and will give them whatever weight as needed.

Plaintiff's Exhibit 28 - California State Rail Plan (2018) – identified – moved into evidence. Objection by Counsel Johnson. **Court will take judicial notice of Exhibit 28.**

Court will recess for the day and will commence on 8/24/22 @ 9:00 a.m., Courtroom E.

Minutes complete/cr