

IN THE IOWA DISTRICT COURT
FOR POLK COUNTY

LISA KRAGNES and all others
similarly situated,

Plaintiff,

vs.

CITY OF DES MOINES, IOWA,

Defendant.

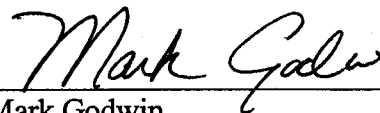
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) Law No. CE 49273
)
)
)

) STATEMENT OF MATERIAL
) FACTS NOT IN DISPUTE
) IN SUPPORT OF DEFENDANT'S
) MOTION FOR PARTIAL
) SUMMARY JUDGMENT
)

COMES NOW the Defendant, the City of Des Moines, and in support of its motion for summary judgment states that the following material facts are not in dispute:

1. Plaintiff(s) have claimed that the gas and electric fees at issue are illegal taxes which "should be refunded." (Petition, ¶8 and Prayer).

2. The Iowa Supreme Court has held that the franchise fees at issue are not illegal taxes, but instead are statutorily authorized franchise fees which the City is empowered to assess and collect. Kragnes v. City of Des Moines, 714 N.W.2d 632, 638 (Iowa 2006).



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Original Filed.

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POLK COUNTY IOWA
CLERK DISTRICT COURT
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Copies to:

Honorable Don C. Nickerson
Judge, 5th Judicial District

Mr. Brad Schroeder
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ATTORNEY FOR PLAINTIFF

PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses

disclosed on the pleadings on 10-2-06

By: U.S. Mail FAX
 Hand Delivered Overnight Courier
 Federal Express Other:

Signature Dwaine Roscoe