

IN THE COUNTY COURT OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR ALACHUA COUNTY, FLORIDA

JAMES J. KONISH, et al.
Plaintiffs,

CASE NO. 01-2014-SC-4051
DIVISION: IV

v.

CITY OF GAINESVILLE &
GAINESVILLE REGIONAL UTILITIES
Defendants.

PRETRIAL STATEMENT

Plaintiffs respectfully submit the following:

1. This case assails the legality of the Defendants' application of the §166.231 Public Service (Utility) Tax on GRU customer charges, and the §203.01 Gross Receipts Tax, at the full not-to-exceed rate of 10%.

2. Plaintiffs are seeking a refund of overcharges as itemized in the schedules attached to the complaints as of the date of the filing, including additional overcharges to be determined that are suffered until the date of judgment.

The damages sought by Plaintiffs as of the date of the complaint are as follows:

<u>Name</u>	<u>Dollar Amount</u>
James J. Konish & James J. Konish d/b/a 625 Northeast First Street LLC; 120 Southeast Seventh Street LLC; 619 Northeast First Street LLC	\$1078.42

One Stop Chevron \$398.89

William A. Newsome MD d/b/a

Eye Associations of Gainesville, LLC \$398.23

3. N/A

4. Plaintiffs will rely on:

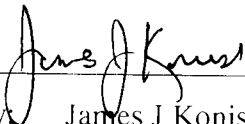
- a) GRU handouts which explain its 2013 & 2014 calculation of GRU Gas bills revised 9/13 & 8/14, and 2014 calculation of Electric and Water bills revised 8/14
- b) actual GRU bills received by Plaintiffs within the period of time in question
- c) internal GRU memoranda regarding the City of Gainesville's application of the utility tax to GRU bills furnished in response to a public records request of James Konish dated April 2, 2015
- d) correspondence between Mr. John Caravella, Seniors vs. Crime and GRU dated April 17, 2014, May 8, 2014, September 8, 2014
- e) GRU 2015 budget documents showing the projected amounts of utility tax and utility surcharges projected to be collected
- f) the GRU fact sheet modified 9/13 explaining GRU bill definitions
- g) a chart prepared by James Konish comparing Electric Customer Charges for Duke, F.P.& L., Clay Electric & GRU For 2014-2016
- h) Fla. Dept. of Revenue Data on the GRU Utility Tax (pulled from DOR website)
- i) a response to Public Records Request of James Konish dated December 22, 2014 regarding GRU enterprise zone public service exemptions

- j) City of Gainesville map of Enterprise Zones
- k) an Informal Letter of Technical Advice from Fla. Dept. of Revenue (DOR) to James Konish dated Sept. 5, 2014.

5. Plaintiffs will call as witnesses:

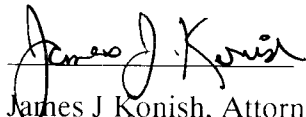
a) Laurie Newsome
Office Manager
Eye Associates of Gainesville, LLC
2521 N.W. 41st St.
Gainesville, FL 32606
(352) 538-4396

b) John Caravella, Office Manager
c/o Alachua County Sheriff's Office
2621 Hawthorne Road
Gainesville, FL 32641
(352) 367-4023


By _____ James J Konish
Attorney For Plaintiff
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(352) 371-9061 (fax)
falr@bellsouth.net

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above has been furnished by U.S. mail email to the defendants, CITY OF GAINESVILLE, c/o City Attorney, 200 East University Ave, Room 425, Gainesville, FL 32601, waratukeea@cityofgainesville.org, and GAINESVILLE REGIONAL UTILITIES, c/o Utilities Attorney, 301 S.E. 4th Avenue, Gainesville, Florida 32601, whitecg@cityofgainesville.org, on the 24th day of April, 2015.

By: 
James J Konish, Attorney
Florida Bar No. 0296287