

From the Courtroom – Judge Wu indicates that he’s likely to enjoin SB 863

On November 4, Central District of California Judge George Wu indicated that he is inclined to enjoin the workers compensation lien activation fee contained in California’s SB 863. At that hearing, which was held in a standing-room-only courtroom, he indicated that he was inclined to reject the plaintiffs’ constitutional Taking argument but would issue the injunction based on their Equal Protection argument. He asked the parties to return on November 7 to offer additional arguments.

On November 7, Judge Wu leaned (sorry) even farther toward the plaintiffs’ position. He said that he will enjoin the activation fee on Equal Protection grounds and said that he will reconsider his earlier rejection of the Taking argument. This is significant because the Taking theory may be easier to defend when Judge Wu’s ruling is appealed, as it certainly will be.