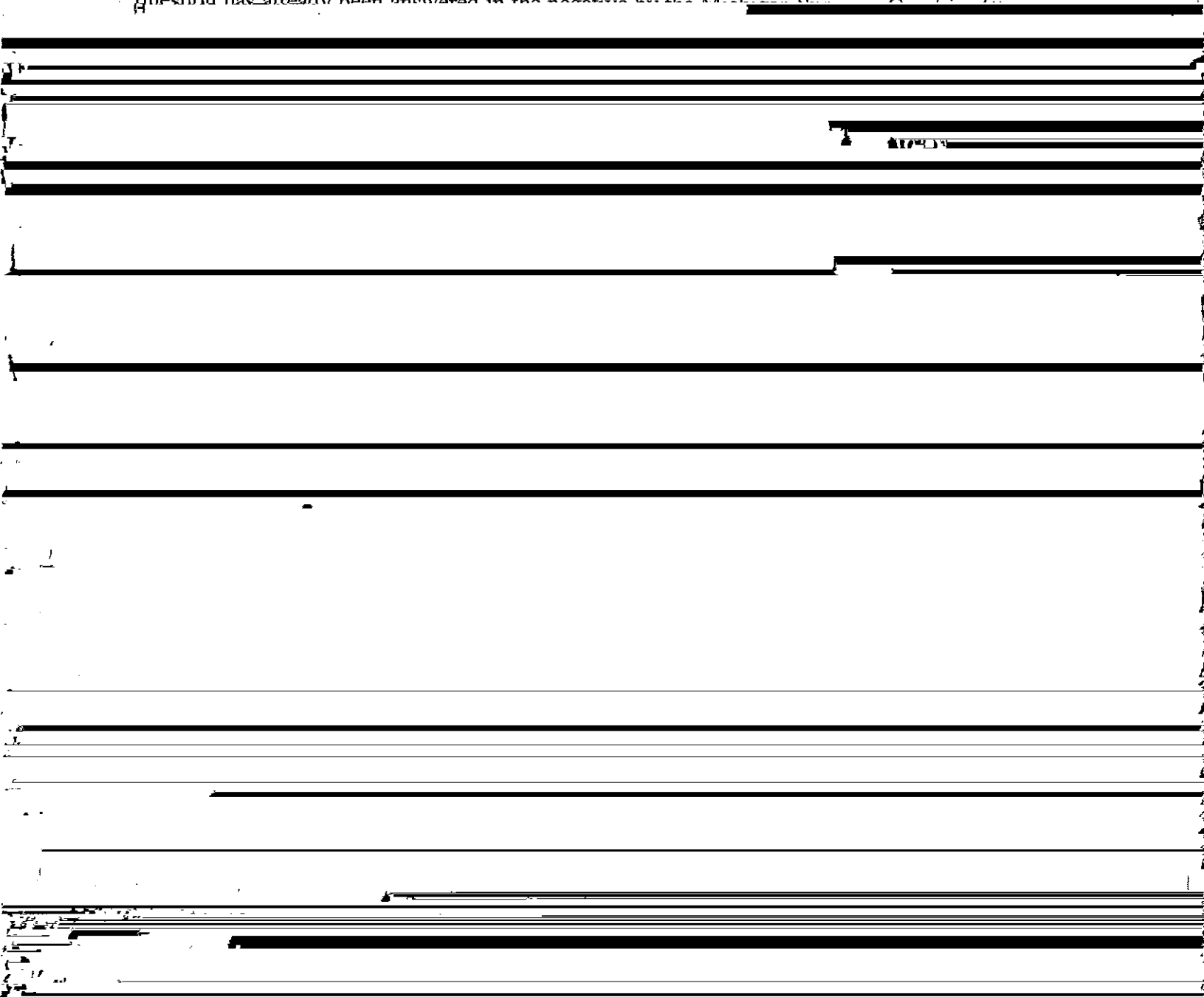




INTRODUCTION

The brief filed by Defendant City of Lansing opposing Plaintiff ABC's Motion for Summary Disposition makes for interesting reading but, except for a single paragraph spanning pages 12-13, completely ignores the seminal issue before the Court. The question in this case is not whether the Michigan Constitution and/or the Home Rule Act should be interpreted in such a way as to provide a home rule city (like Lansing) the authority to regulate third party employee wages. As articulated in Plaintiff's Motion for Summary Disposition and supporting brief, that question has already been answered in the negative by the Michigan Supreme Court in *City of Lansing v. ABC*, 2011 WL 1234567.



Because *Lanano* has not been overruled, this Court must follow its holding and state its reasons.

blown past critical language on which it bases its own argument. The Court stated quite specifically that “[t]he enactment and enforcement of ordinances related to *municipal concerns* is a valid exercise of municipal power as long as the ordinance does not conflict with the constitution or general laws.” *Id.* at 253 (emphasis added) (internal citation omitted). This quotation from the Home Rule Act reveals an important limitation on municipal power – the enactment and enforcement of municipal regulations must be tied to a municipality’s “*municipal concerns*.” If the regulation is not related to a municipal concern, the regulation is not a valid

this case, the City of Lansing is authorized to regulate only in matters of municipal concern.<sup>1</sup> In

short, the existence of a municipal concern is the sole basis for the City's authority to regulate.

[REDACTED]



analyzed the regulatory wage rate ordinance before it under the same kind of "liberal

This language is verbatim to that which existed when the Court determined *Lennane* in 1923. See *Lennane* at 638. This disposes of any argument the City of Lansing might advance at oral argument alleging that the legislature has statutorily overruled *Lennane*. "It is a well-established rule of statutory construction that the Legislature is presumed to be aware of judicial interpretations of existing law." *Ford Motor Co. v. City of Woodhaven*, 475 Mich 425, 439-440; 716 NW2d 247 (2006). Furthermore, the Legislature has amended various provisions of the Home Rule Act since *Lennane* was decided. Because the Legislature has refrained from amending the provision at issue, this Court should view that "silence or acquiescence [as] an



if this Court were inclined to agree with the City's underlying position on what the law should be

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**IV. THE CASE OF RUDOLPH V GUARDIAN PROTECTIVE SERVICES INC., CONSTITUTES CLEAR PERSUASIVE AUTHORITY IN THIS CASE SO THAT IT SHOULD NOT BE IGNORED AS THE CITY OF LANSING SUGGESTS.**

The City of Lansing correctly states at page 12 of its brief that because *Rudolph v Guardian Protective Services, Inc.*, 2009 Mich App LEXIS 1989, *leave denied* 486 Mich 868 (2010) is not a published decision, the opinion is not binding on this Court. However, this fact does not negate the obvious persuasive value of the decision. In fact, *Rudolph's* holding is highly persuasive support because the factual and legal issues inherent in *Rudolph* constitute the

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*Michigan Bell v. Public Service Commission*, 85 Mich App 163, 166 (1978) (Granting a rate

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benefit rates, the City of Lansing's two ordinances aiming to do precisely that must be struck down as *ultra vires* acts.

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DATED: October 18, 2012

BY: 