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10 (AGRICULTURAL) POOL

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 FOR THE COUNTY OF SAN BERNARDINO

13 CHINO BASIN MUNICIPAL WATER
14 DISTRICT,

15 Plaintiff,

16 v.

17 CITY OF CHINO et al.,

18 Defendants.

Case No. RCVRS 51010

Assigned for All Purposes to the
Honorable Stanford E. Reichert

AGRICULTURAL POOL'S
OBJECTION AND OPPOSITION TO
THE CITY OF ONTARIO'S JOINDER
TO CHINO'S MOTION FOR
REIMBURSEMENT OF ATTORNEYS
FEES AND EXPENSES PAID TO THE
AGRICULTURAL POOL

[Filed concurrently with Declaration of Tracy
Egoscue.]

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TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I. INTRODUCTION 3

II. THE ONTARIO JOINDER SHOULD BE DENIED DUE TO AN AUTOMATIC STAY
PENDING THE AGRICULTURAL POOL’S APPEAL OF THE DECEMBER 2021 ORDER... 3

III. THE ONTARIO JOINDER SHOULD BE DENIED AS UNTIMELY 4

IV. THE ONTARIO JOINDER SHOULD BE DENIED BECAUSE IT IS NOT A PROPER
JOINDER BUT RATHER A SEPARATE AND UNTIMELY FILED MOTION FOR RELIEF
AND REQUESTS REIMBURSEMENTS IN AMOUNTS THAT EXCEED THE COURT’S
MAY 28, 2021 AND DECEMBER 2021 ORDERS 4

V. ONTARIO HAS WAIVED ANY RIGHT TO PAYMENTS IT AUTHORIZED AND PAID
PRIOR TO THE SEPTEMBER 18, 2020 MOTION AND IS ESTOPPED FROM CLAIMING
REIMBURSEMENT 5

VI. CONCLUSION..... 5

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 On January 10, 2022, the City of Ontario (Ontario) filed a Notice of Joinder and Joinder
4 by the City of Ontario in Chino’s Motion for Reimbursement of Attorney’s Fees and Expenses
5 Paid to the Agricultural Pool (Ontario Joinder) concurrently with a Declaration of C. Jones and a
6 Proposed Order. The City of Chino’s Motion for Reimbursement of Attorney’s Fees and
7 Expenses Paid to the Agricultural Pool (Chino’s Motion) was made pursuant to the Court’s
8 November 5, 2021 order signed on December 3, 2021.¹ The Overlying (Agricultural) Pool
9 Committee (Agricultural Pool) hereby objects to the Ontario’s Joinder because it was untimely
10 filed. Ontario’s Joinder is also stayed pending the Agricultural Pools appeal of the Court’s
11 December 2021 Order.

12 The Ontario Joinder submits that it is based on the City of Chino’s January 3, 2022 filings
13 to which it is joining as well as a declaration of Courtney Jones and the record in this matter.
14 (Ontario Joinder, p. 1:22-2:2.) Accordingly, the Agricultural Pool also opposes Ontario’s Joinder
15 on the same grounds as the Agricultural Pool’s Opposition to the City of Chino’s Corrected
16 Motion for Reimbursement of Attorney’s Fees and Expenses Paid to the Agricultural Pool
17 (Opposition to Corrected Motion) and incorporates the arguments therein by reference.

18 Furthermore, the Ontario Joinder should be denied because the (1) the Ontario Joinder is
19 untimely; (2) the Court’s December 2021 Order is automatically stayed pending the Agricultural
20 Pool’s appeal of the order; (3) Ontario requests reimbursements in amounts that exceed the
21 Court’s May 28, 2021 and December 2021 Orders; (4) the Court did not request or order Ontario
22 to file a separate and self-serving motion; (5) Ontario has waived any right to payments it
23 approved and authorized prior to the dispute and is estopped from claiming reimbursement.

24 **II. THE ONTARIO JOINDER SHOULD BE DENIED DUE TO AN AUTOMATIC**
25 **STAY PENDING THE AGRICULTURAL POOL’S APPEAL OF THE**
26 **DECEMBER 2021 ORDER**

27 The Agricultural Pool has requested that the Court confirm the stay of the December 2021

28 ¹ For clarity and consistency this order will be referred to as “December 2021 Order” throughout this opposition.

1 Order in its Opposition to Corrected Motion. (Opposition to Corrected Motion, §§ I, II.) The
2 Agricultural Pool hereby incorporates by reference its arguments from its Opposition to Corrected
3 Motion herein. The Ontario Joinder seeks reimbursement pursuant to the Court’s December 2021
4 Order and joins Chino’s Motion and should, likewise, be stayed pending the Agricultural Pool’s
5 appeal.

6 **III. THE ONTARIO JOINDER SHOULD BE DENIED AS UNTIMELY**

7 The Court has the authority to set filing deadlines for moving and supporting papers. (Code of
8 Civil Procedure, § 1005, subd. (b).) The Court ordered that the City of Chino shall file and serve a
9 motion as to the procedure for reimbursement by January 3, 2022 (within 30 days of the order).
10 (December 2021 Order, p. 2:13-15.) Joinders must be filed with the same notice as regular
11 motions. (*Barak v. Quisenberry Law Firm* (2006) 135 Cal. App. 4th 654, 660-662 [Joinder
12 allowed when timely filed].) Ontario filed its joinder to Chino’s motion on January 10, 2022, one
13 week after the Court imposed deadline. Accordingly, the Court should deny Ontario’s Joinder as
14 untimely.

15 **IV. THE ONTARIO JOINDER SHOULD BE DENIED BECAUSE IT IS NOT A**
16 **PROPER JOINDER BUT RATHER A SEPARATE AND UNTIMELY FILED**
17 **MOTION FOR RELIEF AND REQUESTS REIMBURSEMENTS IN**
18 **AMOUNTS THAT EXCEED THE COURT’S MAY 28, 2021 AND DECEMBER**
19 **2021 ORDERS**

20 The Ontario Joinder is not a proper joinder to Chino’s Motion as it is a different motion
21 seeking different and distinct relief from that sought by Chino. Ontario’s motion only resembles
22 a joinder with Chino’s motion in the misguided attempt to overreach and seek to reverse
23 payments it has authorized prior to this dispute. The evidence submitted in support of Ontario’s
24 Joinder proves that the payments were made after Ontario approved them. (Declaration of
25 Courtney Jones (“Jones Decl.”), ¶6; Ontario Joinder, table identified as “Agricultural (“Ag”) Pool
26 Legal Expenses for Fiscal Year 2019-20.”) Specifically, the Ontario Joinder requests
27 reimbursement—via credit—for amounts it approved and paid Watermaster for Agricultural Pool
28 legal expenses in fiscal year 2019-20 in the amount of \$61,132 plus Ontario’s portion of \$63,314
transferred from non-legal Special Projects, as calculated by Watermaster, as well as repayment
by the Agricultural Pool of \$102,557 transferred from Watermaster administrative reserves in

1 fiscal year (FY) 2020-21. (Ontario Joinder, p. 6:9-13.)

2 Ontario's request is inconsistent with the Court's December 2021 Order and rests on a
3 flawed interpretation thereof. The Agricultural Pool hereby incorporates by reference its
4 arguments from its Opposition to Chino's Corrected Motion herein. The Court's orders were
5 intended to address procedures for reimbursement of assessments paid after the September 18,
6 2020 dispute between the Agricultural and Appropriative Pools arose. (See Opposition to
7 Corrected Motion, §§ III, IV.) Ontario inappropriately seeks to reach beyond the Court's order for
8 reimbursement of payments authorized before the current dispute.

9 **V. ONTARIO HAS WAIVED ANY RIGHT TO PAYMENTS IT AUTHORIZED AND**
10 **PAID PRIOR TO THE SEPTEMBER 18, 2020 MOTION AND IS ESTOPPED**
11 **FROM CLAIMING REIMBURSEMENT**

12 The Ontario Joinder posits that Ontario fully paid Watermaster assessments that included
13 Ontario's share of the \$300,000 initial Agricultural Pool legal budget for FY 2019-20. (Jones
14 Decl., ¶6; Ontario Joinder, table identified as "Agricultural ("Ag") Pool Legal Expenses for Fiscal
15 Year 2019-20.") Ontario did not object to this assessment, authorized and made payment thereof.

16 Ontario joined in objecting to the additional amount sought by the Agricultural Pool for
17 expenses in FY 2019-20. (Jones Decl., ¶7.) Ontario paid its portion of the Watermaster's
18 Appropriative Pool Special Assessment of \$165,694.75 into escrow. (Jones Decl., ¶9.) All funds
19 in escrow have been returned by Watermaster in accordance with the Court's December 2021
20 Order. (Declaration of Tracy Egoscue ("Egoscue Decl."), ¶8.)

21 Accordingly, Ontario has waived any right to payments it authorized and paid prior to the
22 dispute and is estopped from claiming reimbursement in the same manner as Chino. The
23 Agricultural Pool hereby incorporates by reference its arguments from its Opposition to Corrected
24 Motion herein.

25 **VI. CONCLUSION**

26 The Court's December 3, 2021 Order is stayed pending the Agricultural Pool's appeal.
27 Accordingly, the City of Ontario's Joinder of the City of Chino's Motion for Reimbursement of
28 Attorney's Fees and Expenses Paid to the Agricultural Pool should be denied. Additionally, the
Agricultural Pool objects to the Ontario's Joinder as not timely filed. Although couched as a

1 joinder, Ontario has submitted an untimely motion that requests reimbursements in amounts that
2 exceed the Court's May 28, 2021 and December 2021 Orders. Finally, Ontario has waived any
3 right to payments it approved and authorized prior to the September 18, 2020 Motion, and is
4 estopped from claiming reimbursement.

5 For all of the foregoing reasons and those incorporated by reference from the Agricultural
6 Pool's Opposition to City of Chino's Corrected Motion for Reimbursement of Attorney's Fees
7 and Expenses Paid to the Agricultural Pool, the Court should deny the Ontario Joinder.

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Dated: January 24, 2022

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OVERLYING (AGRICULTURAL) POOL

CHINO BASIN WATERMASTER

Case No. RCVRS 51010

Chino Basin Municipal Water District v. City of Chino, et al.

PROOF OF SERVICE

I declare that:

I am employed in the County of San Bernardino, California. I am over the age of 18 years and not a party to the within action. My business address is Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, California 91730; telephone (909) 484-3888.

On January 24, 2022 served the following:

1. AGRICULTURAL POOL'S OBJECTION AND OPPOSITION TO THE CITY OF ONTARIO'S JOINDER TO CHINO'S MOTION FOR REIMBURSEMENT OF ATTORNEYS FEES AND EXPENSES PAID TO THE AGRICULTURAL POOL

/X/ BY MAIL: in said cause, by placing a true copy thereof enclosed with postage thereon fully prepaid, for delivery by United States Postal Service mail at Rancho Cucamonga, California, addresses as follows:

See attached service list: Master Email Distribution List

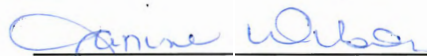
/ BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee.

/ BY FACSIMILE: I transmitted said document by fax transmission from (909) 484-3890 to the fax number(s) indicated. The transmission was reported as complete on the transmission report, which was properly issued by the transmitting fax machine.

/X/ BY ELECTRONIC MAIL: I transmitted notice of availability of electronic documents by electronic transmission to the email address indicated. The transmission was reported as complete on the transmission report, which was properly issued by the transmitting electronic mail device.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on January 24, 2022 in Rancho Cucamonga, California.



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