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7 Attorneys for
City of Ontario

EXEMPT FROM FILING FEES
PURSUANT TO GOV. CODE, § 6103

9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SAN BERNARDINO

12 CHINO BASIN MUNICIPAL WATER
DISTRICT,

13 Plaintiff,

14 v.

15 CITY OF CHINO, et al.,

16 Defendants.

CASE NO. RCVRS 51010

ASSIGNED FOR ALL PURPOSES TO
HONORABLE STANFORD E. REICHERT

DECLARATION OF ELIZABETH P.
EWENS IN SUPPORT OF CITY OF
ONTARIO'S COMBINED REPLY TO
OPPOSITIONS

RE: APPLICATION FOR AN ORDER TO
EXTEND TIME UNDER JUDGMENT,
PARAGRAPH 31(C) TO CHALLENGE
WATERMASTER ACTION/DECISION
ON NOVEMBER 18, 2021 TO APPROVE
THE FY 2021/2022 ASSESSMENT
PACKAGE. IF SUCH REQUEST IS
DENIED, THIS FILING IS THE
CHALLENGE

Hearing:

Date: June 17, 2022

Time: 1:30 p.m.

Dept.: S35

1 I, Elizabeth P. Ewens, declare as follows:

2 1. I have personal knowledge of the facts stated in this Declaration and, if called as a
3 witness, could and would testify competently to those facts.

4 2. I am an attorney at Stoel Rives LLP, attorney of record for City of Ontario
5 (“Ontario”).

6 3. I make this Declaration in support of Ontario’s Combined Reply to the Oppositions
7 of Watermaster, Fontana Water Company and Cucamonga Valley Water District, and Inland
8 Empire Utilities Agency to the Application for an Order to Extend Time Under Judgment,
9 Paragraph 31(c) to Challenge Watermaster Action/Decision on November 18, 2021 to Approve the
10 FY 2021/2022 Assessment Package and Challenge (“Application”).

11 4. Stoel Rives LLP was officially retained to represent Ontario in this matter on
12 March 15, 2022, and my office filed the Substitution of Attorney on March 23, 2022.

13 5. On or about March 21, 2022, I contacted the Watermaster’s counsel by telephone to
14 introduce myself as new counsel for Ontario. I exchanged several emails with counsel following
15 the introduction. Attached hereto as **Exhibit 1** are true and correct copies of my correspondence
16 with Watermaster’s counsel between March 21 and 28, 2022.

17 6. On April 8, 2022, the Court heard arguments for, among other things, Ontario’s ex
18 parte application to exceed page limit for its reply memoranda in support of the Application filed
19 on February 17, 2022. At the hearing, the Court continued the hearing on the Application from
20 April 8 to June 17, 2022. The Court also granted Ontario’s request to exceed the page limit for the
21 reply memoranda, allowing a brief that did not exceed 40 pages to be filed on or before May 27,
22 2022.

23 7. Following the hearing, I reached out to Scott Slater, counsel for Watermaster, to
24 propose a stipulation to a briefing schedule as the Court’s continuance of the hearing allowed for
25 additional time to fully brief the merits of the challenge to the Watermaster’s actions. Following a
26 closed Board session, I was informed by counsel that Watermaster, as well as Opposing Parties,
27 oppose any changes to the schedule set forth by the Court. A true and correct copy of my
28 correspondence with Watermaster’s counsel is attached hereto as Exhibit 2.

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I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct. Executed on this 26th day of May 2022, at Sacramento, California.



Elizabeth P. Ewens

EXHIBIT 1

From: Ewens, Elizabeth P. <elizabeth.ewens@stoel.com>
Sent: Thursday, March 24, 2022 7:56 PM
To: Slater, Scott
Cc: Scott Burton; Christopher T. Quach; Brown, Michael B.; Peter Kavounas
Subject: RE: Ontario's Application for Order to Extend Time [SR-ACTIVE.FID5390434]

Scott:

Given the circumstances, this decision is unfortunate and contrary to what we believe should be the fundamental direction of the Watermaster, which is to support the opportunity for full and fair hearings on issues of import pending before the Court. That said, I appreciate the update and will look forward to our further discussions.

Regards,

Elizabeth

From: Slater, Scott <SSlater@bhfs.com>
Sent: Thursday, March 24, 2022 7:44 PM
To: Ewens, Elizabeth P. <elizabeth.ewens@stoel.com>
Cc: Scott Burton <SBurton@ontarioca.gov>; Christopher T. Quach <CQuach@ontarioca.gov>; Brown, Michael B. <michael.brown@stoel.com>; Peter Kavounas <pKavounas@cbwm.org>
Subject: Re: Ontario's Application for Order to Extend Time [SR-ACTIVE.FID4893552]

Elizabeth:

I wanted to follow-up on the Board's consideration of your request for a 75-day extension. I forwarded your letter request to the full Board. The Board met in closed session this afternoon and took no reportable action. Thus, the earlier direction to counsel on this matter stands. That is, Watermaster will continue to oppose both the request for extension currently on file and, if the extension is not granted by court order on April 8th, also oppose Ontario's challenge to the Assessment package.

Watermaster's Opposition is due tomorrow. If you have any questions or desire further information I will be available most of tomorrow and can be reached most easily on my cell.

Regards,
Scott

Sent from my iPhone

On Mar 21, 2022, at 4:50 PM, Ewens, Elizabeth P. <elizabeth.ewens@stoel.com> wrote:

Scott:

It was a pleasure speaking with you earlier this afternoon. As mentioned, our firm will be substituting in as counsel for the City of Ontario regarding the pending Application for Order to Extend Time ("Application") and underlying challenge to the Watermaster Board's decision to approve the Fiscal Year 2021/2022 Assessment Package. While I understand from our conversation that there was an unwillingness by the Watermaster Board to agree to an extension, given our firm's entry into this case

and the underlying complexity of the issues we believe the request for an extension warrants a second look by the Watermaster Board. Ontario understands and appreciates the parties' desire to have the substantive issues resolved as soon as possible. In deference to that and in the spirit of compromise, as an alternative to the requested 90-day extension in the Application, Ontario asks that as Watermaster counsel you recommend a 75-day extension to the Watermaster Board and that the Watermaster Board stipulate to this 75-day extension. We additionally hope that the parties will use this additional time to engage in further discussions to determine whether the issues can be either narrowed or resolved in their entirety.

As a matter of professional courtesy, my sincere hope is that the parties can resolve these timing issues by stipulation. However, to be clear, if the Watermaster Board will not agree to a 75-day extension, Ontario will have no option other than to seek relief from the Court based on changed circumstances given the retention of new counsel.

Again, I very much appreciate your professionalism and candor during our call today. I look forward to your response and our further discussions.

Regards,

Elizabeth

Elizabeth Ewens | Partner
STOEL RIVES LLP | 500 Capitol Mall, Suite 1600 | Sacramento, CA 95814
Direct: (916) 319-4667 | Mobile: (530) 220-2227
elizabeth.ewens@stoel.com | [Bio](#) | [vCard](#) | www.stoel.com



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From: Ewens, Elizabeth P. <elizabeth.ewens@stoel.com>
Sent: Monday, March 28, 2022 4:07 PM
To: Slater, Scott
Cc: Herrema, Brad; Scott Burton; Christopher T. Quach; Brown, Michael B.; Peter Kavounas; Jim Curatalo
Subject: RE: Ontario's Application for Order to Extend Time [SR-ACTIVE.FID5390434]

Thanks for the update. I'll sign and return for filing tomorrow.

Elizabeth

From: Slater, Scott <SSlater@bhfs.com>
Sent: Monday, March 28, 2022 3:50 PM
To: Ewens, Elizabeth P. <elizabeth.ewens@stoel.com>
Cc: Herrema, Brad <BHerrema@bhfs.com>; Scott Burton <SBurton@ontarioca.gov>; Christopher T. Quach <CQuach@ontarioca.gov>; Brown, Michael B. <michael.brown@stoel.com>; Peter Kavounas <PKavounas@cbwm.org>; Jim Curatalo <j.curatalo@yahoo.com>
Subject: Re: Ontario's Application for Order to Extend Time [SR-ACTIVE.FID5390434]

We have learned that Judge Reichert is unreachable until the 6th. But the 22nd is available. My recommendation is we get everyone on the stip and file it. If we can get your signature, we will circulate and obtain all other sigs and file tomorrow.

Sent from my iPhone

On Mar 28, 2022, at 2:36 PM, Ewens, Elizabeth P. <elizabeth.ewens@stoel.com> wrote:

Thank you, Brad. If we need to clear an alternate date for the Court, just let us know. In the meantime, we'll take a look at the stipulation.

Elizabeth

From: Herrema, Brad <BHerrema@bhfs.com>
Sent: Monday, March 28, 2022 2:20 PM
To: Ewens, Elizabeth P. <elizabeth.ewens@stoel.com>; Slater, Scott <SSlater@bhfs.com>
Cc: Scott Burton <SBurton@ontarioca.gov>; Christopher T. Quach <CQuach@ontarioca.gov>; Brown, Michael B. <michael.brown@stoel.com>; Peter Kavounas <PKavounas@cbwm.org>; Jim Curatalo <j.curatalo@yahoo.com>
Subject: RE: Ontario's Application for Order to Extend Time [SR-ACTIVE.FID5390434]

Elizabeth,

Please see the draft stipulation attached. This is based on the assumption that April 22 is still available for this matter – we're still waiting to hear back from Watermaster staff on their confirming with the clerk.

Best,

Brad

Bradley J. Herrema

Brownstein Hyatt Farber Schreck, LLP

2049 Century Park East, Suite 3550

Los Angeles, CA 90067

805.882.1493 tel

805.886.7765 cell

BHerrema@bhfs.com

Brownstein - we're all in.

From: Ewens, Elizabeth P. <elizabeth.ewens@stoel.com>

Sent: Monday, March 28, 2022 12:22 PM

To: Slater, Scott <SSlater@bhfs.com>

Cc: Scott Burton <SBurton@ontarioca.gov>; Christopher T. Quach <CQuach@ontarioca.gov>; Brown, Michael B. <michael.brown@stoel.com>; Peter Kavounas <PKavounas@cbwm.org>; Herrema, Brad <BHerrema@bhfs.com>; Jim Curatalo <j.curatalo@yahoo.com>

Subject: RE: Ontario's Application for Order to Extend Time [SR-ACTIVE.FID5390434]

Thanks for the update.

From: Slater, Scott <SSlater@bhfs.com>

Sent: Monday, March 28, 2022 11:59 AM

To: Ewens, Elizabeth P. <elizabeth.ewens@stoel.com>

Cc: Scott Burton <SBurton@ontarioca.gov>; Christopher T. Quach <CQuach@ontarioca.gov>; Brown, Michael B. <michael.brown@stoel.com>; Peter Kavounas <PKavounas@cbwm.org>; Herrema, Brad <BHerrema@bhfs.com>; Jim Curatalo <j.curatalo@yahoo.com>

Subject: Re: Ontario's Application for Order to Extend Time [SR-ACTIVE.FID5390434]

We believe we now have consent from all interested parties. Stip coming from Brad Herrema.

Sent from my iPhone

On Mar 28, 2022, at 11:06 AM, Ewens, Elizabeth P. <elizabeth.ewens@stoel.com> wrote:

That makes sense. I'll look for the draft stipulation.

Thanks, Scott.

Elizabeth

From: Slater, Scott <SSlater@bhfs.com>

Sent: Monday, March 28, 2022 11:03 AM

To: Ewens, Elizabeth P. <elizabeth.ewens@stoel.com>

Cc: Scott Burton <SBurton@ontarioca.gov>; Christopher T. Quach <CQuach@ontarioca.gov>; Brown, Michael B. <michael.brown@stoel.com>; Peter Kavounas <PKavounas@cbwm.org>; Herrema, Brad <BHerrema@bhfs.com>; Jim

Curatalo <j.curatalo@yahoo.com>

Subject: Re: Ontario's Application for Order to Extend Time [SR-ACTIVE.FID5390434]

Elizabeth:

I hope to make this quick. And easy. (1) we will reconfirm the court still has room on the 22nd. We believe they do; (2) we have a draft stip for your consideration and will transmit shortly; (3) stip limited to the terms recited below as they are consistent with the direction from the Watermaster Board; (4) we will assume responsibility for liaising with all other parties that have filed oppositions in the matter and securing their signature. We see no reason they would oppose; (5) upon securing signatures we will notify the clerk and file the stipulation; and (6) If and only if other parties oppose, we would agree to go jointly pursue ex parte relief in accordance with the stip. We do not believe that will be necessary if both Ontario and Watermaster are in agreement.

The remaining Watermaster matters on the court calendar will remain.

Hope this makes sense. Thank you and the City for working through this constructively.

Sincerely,
Scott

Sent from my iPhone

On Mar 28, 2022, at 10:43 AM, Ewens, Elizabeth P.
<elizabeth.ewens@stoel.com> wrote:

Scott –

Thank you for working with our office on the scheduling issues. I have confirmation from Ontario that they agree to the two week extension of the briefing deadline as set forth below. I also believe this to be consistent with your email on Friday:

- The parties agree to a two week extension of the deadline for Ontario to file its reply, to and including April 15, 2022.
- The parties agree that the above is without prejudice to Ontario's ability to argue both motions (application for extension of time and challenge to Watermaster action), plead in the alternative.
- The parties agree and request that the April 8, 2022 hearing be continued to accommodate the above.

If agreeable, we will prepare a short stipulation to memorialize the above. Please also let us know whether you are in communication with other interested parties, including Fontana Water Company, Cucamonga Valley Water District, and IEUA, or whether you would like our office to circulate the draft stipulation to their counsel as well.

Again, your cooperation is very much appreciated. If you have any questions, please feel free to call me on my cell: 530-220-2227.

Regards,

Elizabeth

From: Slater, Scott <SSlater@bhfs.com>
Sent: Friday, March 25, 2022 5:19 PM
To: Ewens, Elizabeth P. <elizabeth.ewens@stoel.com>
Cc: Scott Burton <SBurton@ontarioca.gov>; Christopher T. Quach <CQuach@ontarioca.gov>; Brown, Michael B. <michael.brown@stoel.com>; Peter Kavounas <PKavounas@cbwm.org>; Herrema, Brad <BHerrema@bhfs.com>; Jim Curatalo <j.curatalo@yahoo.com>
Subject: Re: Ontario's Application for Order to Extend Time [SR-ACTIVE.FID5390434]

Elizabeth.

I do not speak for the Board. They can consider something different than what I understood that you wanted and that I requested. The language you highlighted below is completely consistent with that interpretation. In any event, the Board members all have our email exchange. My recommendation of what I understood your offer to be - and approved by the Board - ensures that you get the extra time (two more weeks to prepare a reply) no matter what. And an extension of the hearing date. What you are asking to do now is split an alternative motion your predecessor filed. If you go ex parte, I expect that I will inform the Court that we have already offered you a two week extension (for the entire matter) which gives you a month since you filed your notice of substitution - and without prejudice to your ability to argue both motions, plead in the alternative.

Regardless, upon your client's communication of your decision, I will inform the Board. If your client elects to accept or reject the proposed stip, I will then communicate with my Board and let you know of any further direction at that time.

If you find any ambiguity in this email, please call to clear it up.

Sincerely,
Scott

Sent from my iPhone

On Mar 25, 2022, at 4:45 PM, Ewens, Elizabeth P. <elizabeth.ewens@stoel.com> wrote:

Scott –

As a follow up to our call, it sounds like there was a miscommunication, but our hope is that we can continue to work together to navigate it and come to a solution that works for all parties and the Court. Specifically, as noted in my email (highlighted), it was Ontario's intent to still seek an extension of time under the Judgment by way of its pending application and ex

parte application for an extension. Due to the Court's schedule, we understand that the extension request cannot be heard until April 8, after the current April 1 deadline for Ontario to file a Reply brief. From Ontario's perspective, it does not make sense for the reply brief to be filed while the extension request is still pending, particularly given the fact that new counsel substituted into the case this week. Accordingly, the requested two week extension was meant to give the Court time to hear this matter on April 8. If Ontario's application for extension is denied then, by stipulation, Ontario's reply would be due on April 15 with the hearing on the substance of the challenge to be heard on April 22.

I understand from your email and our call this afternoon that you have been working to secure agreement to a simple two week extension of time, extending the reply brief deadline from April 1 to April 15, and postponing the hearing date from April 8 to April 22. I have shared this with Ontario. I also understand from our discussion that Watermaster will not consider anything other than this simple two-week extension, and I have communicated this to Ontario as well and they are seriously considering this option.

I regret the disconnect but, again, I hope that the parties can work through it. As a practical matter, as we discussed, before Ontario can effectively agree to withdraw its already pending application for a 90-day extension of time in exchange for Watermaster's agreement to a two-week extension, we need to be confident that this is feasible based on where we are in the process of on-boarding our law firm on the case since we only substituted into the case this week.

It sounds like you still need to connect with one of your Board members, and I will continue to be in communication with Ontario about Watermaster's position. Let's plan to talk on Monday morning at which point we hopefully can agree on a path forward. As discussed, if we can get to an agreement on the schedule, let's plan to get a stipulation on file with the Court on Monday so that we can get some certainty.

I very much appreciate your prompt response today and continued efforts to work on an agreed upon schedule. I will get a response to you as soon as possible on the two-week extension-only proposal.

Regards,

Elizabeth

From: Slater, Scott <SSlater@bhfs.com>
Sent: Friday, March 25, 2022 12:31 PM
To: Ewens, Elizabeth P. <elizabeth.ewens@stoel.com>
Cc: Scott Burton <SBurton@ontarioca.gov>; Christopher T. Quach <CQuach@ontarioca.gov>; Brown, Michael B. <michael.brown@stoel.com>; Peter Kavounas <pKavounas@cbwm.org>; Herrema, Brad <BHerrema@bhfs.com>
Subject: RE: Ontario's Application for Order to Extend Time [SR-ACTIVE.FID5390434]

Elizabeth:

In the interest of time, I am forwarding this email to the entire Board along with my recommendation that we agree to a continuance of the hearing. I will have had time to discuss this request with the officers. My recommendation is that we stipulated to a continuance of the hearing only, to April 22nd with **Judge Reichert**. And by code we agree your apply is due April 15. They support my recommendation. I have let counsel for IEUA know as they have filed their own opposition and they will not oppose this request. Because I have taken scheduling requests from to the full Board on two prior occasions, I am uncomfortable with not informing them of my recommendation. Thus, I will do so now and unless you hear differently from me before 1.00 p.m. – at which time my conditional approval to a stipulation will be final and unconditional.

I suggest we prepare a stipulation to file with the court for filing no later than close of business Monday.

Sincerely,
Scott

P.S. we are not aware of any other scheduling requests to move any item scheduled on April 8 to April 22nd to. Watermaster does have items scheduled on the 8th. They are not subject to a request. Typically scheduling with the court is handled through Watermaster. We are aware of none.

Scott S. Slater
Shareholder
Brownstein Hyatt Farber Schreck, LLP
1021 Anacapa Street, 2nd Floor
Santa Barbara, CA 93101
805.882.1420 tel
805.895.3200 cell
SSlater@bhfs.com

From: Ewens, Elizabeth P.
<elizabeth.ewens@stoel.com>
Sent: Friday, March 25, 2022 10:24 AM
To: Slater, Scott <SSlater@bhfs.com>
Cc: Scott Burton <SBurton@ontarioca.gov>; Christopher T. Quach <CQuach@ontarioca.gov>; Brown, Michael B. <michael.brown@stoel.com>; Peter Kavounas <pKavounas@cbwm.org>
Subject: RE: Ontario's Application for Order to Extend Time [SR-ACTIVE.FID5390434]

Scott:

We have been in contact with the court clerk to secure a hearing date for Ontario's ex parte application for an extension. We understand that the Judge will be out of town until April 6, which is after the current deadline for the City of Ontario to file its substantive reply brief. At the same time, we also understand from the clerk that there is a pending request from other counsel to continue the April 8 hearing, and April 22 was offered as an alternative date.

Consistent with our prior communications, Ontario still intends to seek an extension of time under the Judgment to challenge Watermaster action. Per your email last night, I understand that Watermaster will not stipulate to that extension. As an alternative, and as a matter of professional courtesy given Ontario's retention of new counsel and the fact that our firm only substituted in as counsel this week, we ask that you minimally stipulate to a continuance of the hearing to April 22, which, absent an extension by the Court, would put the Reply brief due by Ontario one week prior, April 15, per the Code. This would be a very minor extension of the hearing and briefing schedule.

Please advise **no later than 1:00 today** whether you will agree to this brief extension of the schedule. Your anticipated professional courtesies in this regard are greatly appreciated.

Regards,

Elizabeth

From: Slater, Scott <SSlater@bhfs.com>
Sent: Thursday, March 24, 2022 7:44 PM
To: Ewens, Elizabeth P. <elizabeth.ewens@stoel.com>
Cc: Scott Burton <SBurton@ontarioca.gov>; Christopher T. Quach <CQuach@ontarioca.gov>; Brown, Michael B. <michael.brown@stoel.com>; Peter Kavounas

[<pKavounas@cbwm.org>](mailto:pKavounas@cbwm.org)

Subject: Re: Ontario's Application for Order to Extend Time [SR-ACTIVE.FID4893552]

Elizabeth:

I wanted to follow-up on the Board's consideration of your request for a 75-day extension. I forwarded your letter request to the full Board. The Board met in closed session this afternoon and took no reportable action. Thus, the earlier direction to counsel on this matter stands. That is, Watermaster will continue to oppose both the request for extension currently on file and, if the extension is not granted by court order on April 8th, also oppose Ontario's challenge to the Assessment package.

Watermaster's Opposition is due tomorrow. If you have any questions or desire further information I will be available most of tomorrow and can be reached most easily on my cell.

Regards,

Scott

Sent from my iPhone

On Mar 21, 2022, at 4:50 PM, Ewens, Elizabeth P.

[<elizabeth.ewens@stoel.com>](mailto:elizabeth.ewens@stoel.com) wrote:

Scott:

It was a pleasure speaking with you earlier this afternoon. As mentioned, our firm will be substituting in as counsel for the City of Ontario regarding the pending Application for Order to Extend Time ("Application") and underlying challenge to the Watermaster Board's decision to approve the Fiscal Year 2021/2022 Assessment Package. While I understand from our conversation that there was an unwillingness by the Watermaster Board to agree to an extension, given our firm's entry into this case and the underlying complexity of the issues we believe the request for an extension warrants a second look by the Watermaster Board. Ontario understands and appreciates the parties' desire to have the substantive

issues resolved as soon as possible. In deference to that and in the spirit of compromise, as an alternative to the requested 90-day extension in the Application, Ontario asks that as Watermaster counsel you recommend a 75-day extension to the Watermaster Board and that the Watermaster Board stipulate to this 75-day extension. We additionally hope that the parties will use this additional time to engage in further discussions to determine whether the issues can be either narrowed or resolved in their entirety.

As a matter of professional courtesy, my sincere hope is that the parties can resolve these timing issues by stipulation. However, to be clear, if the Watermaster Board will not agree to a 75-day extension, Ontario will have no option other than to seek relief from the Court based on changed circumstances given the retention of new counsel.

Again, I very much appreciate your professionalism and candor during our call today. I look forward to your response and our further discussions.

Regards,

Elizabeth

Elizabeth Ewens | Partner
STOEL RIVES LLP | 500 Capitol Mall,
Suite 1600 | Sacramento, CA 95814
Direct: (916) 319-4667 | Mobile: (530)
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| www.stoel.com



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EXHIBIT 2

From: Simon, Parker G. <psimon@bhfs.com> **On Behalf Of** Slater, Scott
Sent: Thursday, April 28, 2022 4:12 PM
To: Slater, Scott <SSlater@bhfs.com>; Ewens, Elizabeth P. <elizabeth.ewens@stoel.com>
Cc: Scott Burton <SBurton@ontarioca.gov>; Courtney Jones <CJJones@ontarioca.gov>; Christopher T. Quach <CQuach@ontarioca.gov>; Brown, Michael B. <michael.brown@stoel.com>; Thomas S. Bunn <tombunn@lagerlof.com>; Jean Cihigoyenetche <Jean@thejclawfirm.com>; Peter Kavounas <PKavounas@cbwm.org>; skennedy@bmklawplc.com;
Herrema, Brad <BHerrema@bhfs.com>
Subject: RE: Ontario's Application for Order to Extend Time / meet and confer [SR-ACTIVE.FID5390434]

Elizabeth:

As I indicated the board met today in closed session to consider your request below and declined to accept your proposed schedule/briefing modification. In addition I have heard from counsel for IEUA, Fontana Water Company, and Cucamonga County Water District and they are also opposed to your suggested schedule/briefing modification.

Sincerely,
Scott

From: Slater, Scott <SSlater@bhfs.com>
Sent: Wednesday, April 27, 2022 3:54 PM
To: Ewens, Elizabeth P. <elizabeth.ewens@stoel.com>
Cc: Scott Burton <SBurton@ontarioca.gov>; Courtney Jones <CJJones@ontarioca.gov>; Christopher T. Quach <CQuach@ontarioca.gov>; Brown, Michael B. <michael.brown@stoel.com>; Thomas S. Bunn <tombunn@lagerlof.com>; Jean Cihigoyenetche <Jean@thejclawfirm.com>; skennedy@bmklawplc.com
Subject: RE: Ontario's Application for Order to Extend Time / meet and confer [SR-ACTIVE.FID5390434]

Elizabeth:

We have a Watermaster Board meeting on Thursday. I will request that we add this matter to closed session agenda. There are also other parties that have filed oppositions and joinders in this matter. Consequently, I have copied them in my reply to you now. I will connect following the Board meeting.

Sincerely,
Scott

Scott S. Slater

Shareholder
Brownstein Hyatt Farber Schreck, LLP
1021 Anacapa Street, 2nd Floor
Santa Barbara, CA 93101
805.882.1420 tel
805.895.3200 cell
SSlater@bhfs.com

From: Ewens, Elizabeth P. <elizabeth.ewens@stoel.com>
Sent: Wednesday, April 27, 2022 2:22 PM
To: Slater, Scott <SSlater@bhfs.com>
Cc: Scott Burton <SBurton@ontarioca.gov>; Courtney Jones <CJJones@ontarioca.gov>; Christopher T. Quach <CQuach@ontarioca.gov>; Brown, Michael B. <michael.brown@stoel.com>
Subject: Ontario's Application for Order to Extend Time / meet and confer [SR-ACTIVE.FID5390434]

Scott:

I am writing to follow up on Ontario's pending Application for Order to Extend Time ("Application") and underlying challenge to the Watermaster Board's decision to approve the Fiscal Year 2021/2022 Assessment Package ("21/22 Assessment Package") that is now set for hearing on June 17, 2022. As you know from the Application and our prior communications, Ontario initially sought an extension of time, for among other reasons, to engage in further efforts to resolve the dispute and because it did not have retained water counsel due to a conflict at the time the Application was filed. As Ontario's new water counsel, we also requested an extension of time shortly after we were retained and substituted into this matter on March 23, 2022.

At the hearing on April 8, Judge Reichert continued the hearing on the Application to June 17 due to his retirement. Because of this continuance, and particularly in light of a new judicial assignment to a judge without the same institutional knowledge of the case, we believe it would be judicially efficient for the Court and parties to set a full briefing schedule on the underlying challenge to the 21/22 Assessment Challenge for the June 17 hearing date, rather than have the briefing extended further as requested in Ontario's Application. Setting a briefing schedule now will eliminate any alleged prejudice and uncertainty that you allude to in your below March 23 email, and provide a mutual benefit for the new judge and parties to have these important issues fully briefed and addressed on the merits.

Moreover, even though the primary relief sought in the Application is an extension request, Ontario intends to fully brief all issues in its Reply relating to the challenge to the 21/22 Assessment Package since it did not have water counsel at the time it filed the Application and given the fact that the Opposition briefs also addressed the merits of the underlying challenge. Setting a briefing schedule on the underlying challenge will allow all parties to fully address and oppose any counter legal positions.

As a result, we propose the following schedule:

1. May 23 deadline to file Motion to challenge the 21/22 Assessment Package
2. June 6 deadline to file any Opposition to the Motion
3. June 10 deadline to file any Reply
4. June 17 date of hearing on motion

Please let us know if this is acceptable.

Thank you.

Elizabeth

Elizabeth Ewens | Partner
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From: Slater, Scott <SSlater@bhfs.com>
Sent: Wednesday, March 23, 2022 8:36 AM

To: Ewens, Elizabeth P. <elizabeth.ewens@stoel.com>

Cc: Scott Burton <SBurton@ontarioca.gov>; Christopher T. Quach <CQuach@ontarioca.gov>; Brown, Michael B. <michael.brown@stoel.com>; Peter Kavounas <PKavounas@cbwm.org>

Subject: RE: Ontario's Application for Order to Extend Time [SR-ACTIVE.FID4893552]

Ms. Ewens:

I appreciate the email follow-up on Monday to our telephone call earlier in that day. The Board has previously directed counsel to oppose both the request for a 90-Day continuance and the substance of the pending Challenge. I took the liberty of forwarding your email to our Board Officers so that they could read the text and the basis for your request. After considering your email, the Board Officers declined to support an extension of 75 days as requested in your email. In short, the Board Officers believe that ample time and opportunity has been provided to your client previously to state a claim challenging an Assessment Package and retain counsel for this purpose. Delay in this case creates the potential for prejudice to potential storage plans and programs by virtue of the legal uncertainty that clouds the DYY Program and related matters while Ontario's challenge remains unresolved.

I am providing you this prompt notice of their recommendation so that you may continue to take whatever preparatory actions you deem prudent before the full Board has an opportunity to meet and consider your request on Thursday.

Sincerely,

Scott

Scott S. Slater

Shareholder

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From: Ewens, Elizabeth P. <elizabeth.ewens@stoel.com>

Sent: Monday, March 21, 2022 4:50 PM

To: Slater, Scott <SSlater@bhfs.com>

Cc: Scott Burton <SBurton@ontarioca.gov>; Christopher T. Quach <CQuach@ontarioca.gov>; Brown, Michael B. <michael.brown@stoel.com>

Subject: Ontario's Application for Order to Extend Time [SR-ACTIVE.FID4893552]

Scott:

It was a pleasure speaking with you earlier this afternoon. As mentioned, our firm will be substituting in as counsel for the City of Ontario regarding the pending Application for Order to Extend Time ("Application") and underlying challenge to the Watermaster Board's decision to approve the Fiscal Year 2021/2022 Assessment Package. While I understand from our conversation that there was an unwillingness by the Watermaster Board to agree to an extension, given our firm's entry into this case and the underlying complexity of the issues we believe the request for an extension warrants a second look by the Watermaster Board. Ontario understands and appreciates the parties' desire to have the substantive issues resolved as soon as possible. In deference to that and in the spirit of compromise, as an alternative to the requested 90-day extension in the Application, Ontario asks that as Watermaster counsel you recommend a 75-day extension to the Watermaster Board and that the Watermaster Board stipulate to this 75-day extension. We additionally

hope that the parties will use this additional time to engage in further discussions to determine whether the issues can be either narrowed or resolved in their entirety.

As a matter of professional courtesy, my sincere hope is that the parties can resolve these timing issues by stipulation. However, to be clear, if the Watermaster Board will not agree to a 75-day extension, Ontario will have no option other than to seek relief from the Court based on changed circumstances given the retention of new counsel.

Again, I very much appreciate your professionalism and candor during our call today. I look forward to your response and our further discussions.

Regards,

Elizabeth

Elizabeth Ewens | Partner

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