

# FEE EXEMPT

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**CHINO BASIN WATERMASTER**

8  
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **COUNTY OF SAN BERNARDINO**

11  
12 CHINO BASIN MUNICIPAL WATER  
DISTRICT,

13 Plaintiff,

14 v.

15 CITY OF CHINO, et al.,

16 Defendants.  
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20  
21  
22

**Case No. RCV RS 51010**

[Assigned for All Purposes to the  
Hon. Gilbert G. Ochoa]

**WATERMASTER'S OBJECTION TO  
CITY OF ONTARIO'S COMBINED  
REPLY TO OPPOSITIONS OF  
WATERMASTER, FONTANA WATER  
COMPANY AND CUCAMONGA  
VALLEY WATER DISTRICT, AND  
INLAND EMPIRE UTILITIES  
AGENCY TO 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  
OR ALTERNATIVELY, CITY OF  
ONTARIO'S CHALLENGE**

Date: June 17, 2022  
Time: 1:30 p.m.  
Dept.: S24

BROWNSTEIN HYATT FARBER SCHRECK, LLP  
Attorneys at Law  
1021 Anacapa Street, 2nd Floor  
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1 The City of Ontario’s (“Ontario”) Combined Reply in this matter<sup>1</sup> was filed in  
2 contravention of the express requirements of Judge Reichert’s prior order granting its extra parte  
3 request to submit extra pages in a joint reply to three separate oppositions. However, as the  
4 transcript from the April 8, 2022 hearing clearly reflects, Watermaster did not oppose the request  
5 if as conditioned by the Court, Ontario would not raise new subject matter. Indeed, the alternative  
6 relief sought by Ontario in its underlying application - to have the right to raise new subject  
7 matter in a challenge to Watermaster’s Assessments - was also opposed by Watermaster.

8 Ontario’s initial Application comprised FIVE pages and one declaration with two exhibits  
9 and a proposed order granting only an extension of time arising from its challenge to Watermaster  
10 Assessments for Fiscal Year 2021-2022. Its Reply is FORTY pages, with three declarations and a  
11 Request for Judicial Notice to which 61 exhibits – TWO THOUSAND ONE HUNDRED pages –  
12 are attached. Ontario’s Reply includes entirely new arguments and requests relief from the Court  
13 that was not included in its Application. Watermaster objects to the inclusion of these arguments  
14 and requests in the Reply as violating the Court’s order and the on-the-record acknowledgement  
15 of its counsel. New substantive arguments may not be raised by reply absent a showing of good  
16 cause. (*Linovitz Capo Shores LLC v. California Coastal Com.* (2021) 65 Cal. App. 5th 1106,  
17 1118–19.)

18 Watermaster respectfully requests that the Court disregard these arguments and the  
19 referenced material in considering the Application. However, if the Court is inclined to consider  
20 Ontario’s new arguments, Watermaster requests the opportunity to brief them.

21 **I. FACTUAL BACKGROUND**

22 In February 2019, the General Manager, under discretion granted by written agreement to  
23 the representatives of three public agencies and Watermaster, unanimously agreed to modify  
24 protocols making stored water available for use within the Chino Basin. Ontario, represented by  
25 counsel, did not contest that action. In November 2020, the Watermaster Board approved the

26 \_\_\_\_\_  
27 <sup>1</sup> Application for an Order to Extend Time Under Judgment, Paragraph 31(c) to Challenge  
28 Watermaster Action/Decision on November 18, 2021 to Approve the FY 2021/2022 Assessment  
Package; Oppositions of Watermaster, Fontana Water Company and Cucamonga Valley Water  
District, And Inland Empire Utilities Agency

1 Fiscal Year 2020/21 Assessment Package, and Ontario, again represented by counsel, did not file  
2 an action to contest the 2020-2021 Assessment package.

3 In February 17, 2022, Ontario filed its Application, requesting an extension of the time  
4 provided to it under Restated Judgment Paragraph 31(c)<sup>2</sup> to challenge Watermaster Board’s  
5 November 18, 2021 adoption of the Fiscal Year 2021/22 Assessment Package. If its requested  
6 extension was not granted, the Application indicated that it was to serve as Ontario’s challenge to  
7 the November 2021 Watermaster Board action. The Application was initially calendared to be  
8 heard on April 8, 2022.

9 Following the filing of its Application, on March 23, 2022 Ontario filed a Substitution of  
10 Attorney, indicating that Ms. Elizabeth Ewens and her law firm, Stoel Rives LLP, were  
11 substituting in as counsel.

12 On March 24 and 25, 2022, the Inland Empire Utilities Agency (“IEUA”), Watermaster,  
13 and the Cucamonga Valley Water District (“CVWD”) and Fontana Water Company (“FWC”),  
14 jointly, filed their oppositions to Ontario’s Application (the “Oppositions”). Three Valleys  
15 Municipal Water District filed a joinder in support of Watermaster’s opposition.

16 On March 30, 2022, Ontario and the opposing parties submitted to the Court a stipulation  
17 as to the continuance of the hearing on the Application to April 22, 2022.

18 On April 7, 2022, Ontario filed its Ex Parte Application by New Counsel for an Order to  
19 Exceed Page Limit for City of Ontario's Reply Memoranda in Support of Application for an  
20 Order to Extend Time Under Judgment, Paragraph 31(c) to Challenge Watermaster  
21 Action/Decision on November 18, 2021 to Approve the FY 2021/2022 Assessment Package; or,  
22 Alternatively, City of Ontario's Challenge (“Page Limit Application”). Prior to filing the Page  
23 Limit Application, Ms. Ewens offered to “meet and confer” with the parties opposing the  
24 Application. On April 7, 2022, counsel for Watermaster stated to Ms. Ewens that Watermaster  
25 would not oppose Ontario’s request for additional pages for its reply brief(s) “so long as Ontario  
26

27 <sup>2</sup> Restated Judgment Paragraph 31(c) provides: “Time for Motion. Notice of motion to review any  
28 Watermaster action, decision or rule shall be served and filed within ninety (90) days after such  
Watermaster action, decision or rule, except for budget actions, in which event said notice period  
shall be sixty (60) days.”

1 will not use the extra pages to expand the arguments beyond those in its Application.”

2 (Declaration of Elizabeth P. Ewens in support of Page Limit Application, ¶ 5, Ex. 2.)

3 Subsequently, on April 7, 2022 Ontario specifically requested “this Court consider and  
4 grant its ex parte application . . . for an order to allow Ontario to exceed the 10-page limit for the  
5 reply brief to the three oppositions to Ontario’s Application for Extension.” (Page Limit  
6 Application 1:3-5.) Ontario clarified the ex parte application was not to conduct a full briefing of  
7 the issues. (Page Limit Application 1:5-10 [“While the Application for Extension requests an  
8 extension for full briefing on the challenge . . . Ontario makes this ex parte request because  
9 [Watermaster, FWC, CVWD, and IEUA] have filed oppositions to the Application for Extension  
10 that oppose not only the extension request but also the merits of the underlying challenged  
11 Watermaster Action.”].)

12 Although Watermaster disagrees with the characterization that Watermaster, IEUA, FWC,  
13 and CVWD have raised merits arguments in their oppositions sufficient to warrant the entire  
14 scope of Ontario’s Reply, the statement nonetheless makes it clear that the purpose of the Page  
15 Limit Application is only to respond to the Oppositions. Indeed, Watermaster agreed not to  
16 oppose the ex parte application provided that the scope was not increased.

17 During the April 8, 2022 hearing, the Court granted Ontario’s Page Limit Application. At  
18 the hearing, Watermaster legal counsel reiterated the conditional agreement it had relayed to Ms.  
19 Ewens on April 7, 2022 that Watermaster did not oppose the extra pages so long as Ontario did  
20 not expand its arguments beyond those in its application. (April 8, 2022 Hearing Transcript,  
21 attached hereto as Attachment B (“Transcript”), 53:21-54:4.) During that same hearing, the Court  
22 also continued the underlying matter for eight weeks to June 17, 2022 and further extended the  
23 deadline for Ontario’s reply brief(s) to May 27, 2022. With regard to Watermaster’s conditional  
24 non-opposition, Ms. Ewens stated Ontario was “obviously very aware of the law relative to  
25 scope” and that beyond addressing issues raised in the Oppositions, Ontario “fully understand[s]”  
26 the limitation in scope. (Transcript, 54:10-17.)

27 On May 27, 2022, Ontario filed its Reply. Along with its Reply, Ontario filed three  
28 declarations and a request for judicial notice as to 61 exhibits comprising over TWO

1 THOUSAND AND ONE HUNDRED pages.

2 **II. ONTARIO’S REPLY IMPROPERLY EXPANDS THE SCOPE OF ITS**  
3 **APPLICATION**

4 The content of Ontario’s Reply plainly expands the scope of the challenge to  
5 Watermaster’s actions beyond that included in its Application. For whatever reasons it may have  
6 had, Ontario filed the Application that it did on February 17, 2022. That Application was clear on  
7 its face that it sought an extension of the time under Restated Judgment Paragraph 31(c) to file a  
8 more fulsome challenge to Watermaster’s November 18, 2021 action. The merits of whether  
9 Ontario should be given additional time to do so have been briefed elsewhere and the Court will  
10 make its determination in this regard. However, hedging its bets in the event that the Court does  
11 not grant it an extension, Ontario has used its Reply as an attempt to make all of the arguments it  
12 would make in a new application following an extension.<sup>3</sup>

13 Ontario’s original Application focused on the requested extension of time under Paragraph  
14 31(c) applicable to this Court’s continuing jurisdiction over the subject matter. Almost an  
15 afterthought, the entirety of its challenge to the Watermaster Board’s adoption of the FY 2021/22  
16 Assessment Package stated:

17 Ontario has grounds to challenge the propriety of the  
18 action/decision of the Watermaster Board's approval of the Fiscal  
19 Year 2021-2022 Assessment Package. Specifically, Ontario's  
20 challenge is based on the grounds of the failure of Watermaster  
21 staff to administer assessments consistent with the Judgement and  
22 Court Orders. Ontario desires additional time to further develop that  
23 challenge. However, in the event Ontario's Application for an  
24 extension of time is denied, this Application and Declaration in  
25 support of the Application as well as Exhibits A and B attached to  
26 the Declaration shall serve as Ontario's challenge to the propriety of  
27 the action/decision of the Watermaster Board to approve the Fiscal  
28 Year 2021-2022 Assessment Package.

24 (Application, 4:19-26.) Ontario’s Application contained no requested relief in regard to the  
25 challenge to the adoption of the Assessment Package and Ontario submitted no proposed order in

27 <sup>3</sup> Ontario’s Reply admits that this is the case. (Reply, 8:13-16 [“While Ontario has fully briefed  
28 the issues in this Reply, any objections or allegations of prejudice raised by Watermaster and  
Opposing Parties...to the scope of legal arguments raised in this Reply, are of Watermaster’s and  
Opposing Parties’ own making and should be disregarded.”])

1 that regard.

2 A summary comparison of the scope of the Reply and its Application is included in the  
3 chart attached hereto as Attachment A. Ontario’s challenge to the Watermaster FY 2021/2022  
4 Assessment Package arises from the Assessment Package’s treatment of ’s extractions of water  
5 stored pursuant to the Dry Year Yield Program. The Application requested that “the Court grant  
6 its Application for Extension to ensure that the Court has a complete record to further inform its  
7 decision in this case.” (Reply, 9:8-9.)

8 Ontario’s Application did not include a Memorandum of Points and Authorities regarding  
9 the substantive issues of a challenge to the 2021/22 Assessment Package as required by California  
10 Rules of Court Rule 3.1113(a) and included no supporting evidence or legal authority, instead  
11 attaching to a declaration a letter transmitted to Watermaster at its November 18, 2021 Board  
12 meeting. Ontario attempts to now raise new arguments – never presented to Watermaster and  
13 significantly expanding the scope of its challenge. Again, courts do not “entertain arguments  
14 raised for the first time in a reply brief.” (*Linovitz Capo Shores LLC v. California Coastal Com.*  
15 (2021) 65 Cal.App.5th 1106, 1118–19.)

16 Ontario’s Application was focused on the Watermaster adoption of the FY 2021/22  
17 Assessment Package and sought no relief as to the 2019 Letter Agreement. As the law provides  
18 and consistent with its previous representation, it cannot now make new arguments in favor of  
19 relief as to the 2019 Letter Agreement in its Reply. Ontario “should not have addressed the  
20 substantive issues in the first instance but only filled gaps in the evidence created by the  
21 [Oppositions].” (*Jay*, 218 Cal.App.4th at 1538 [striking new issue raised in reply brief because  
22 “[t]here is absolutely no sound reason this issue could not have been raised in the . . . opening  
23 brief”].)

24 Moreover, there is no good cause on these facts. Ontario had ample time from the date of  
25 the General Manager’s execution of a Letter Agreement to raise concerns regarding assessments.  
26 After filing its Applications, it has raised new argument only after the Oppositions were filed.  
27 Ontario has made no showing of good cause why it was unable to fully present all arguments in  
28 its February 2022 Application. The fact that Ontario, in its complete discretion, elected to select

1 substitute counsel is not good cause. (*Reichardt v. Hoffman* (1997) 52 Cal.App.4th 754, 765–66,  
2 *as modified on denial of reh'g* (Mar. 5, 1997) [new counsel does not constitute good cause])  
3 Consequently, Watermaster objects to the Court’s considerations of the following portions of the  
4 Reply that are beyond the scope of the memorandum of points and authorities filed with Ontario’s  
5 Application: page 9, line 13 to page 33, line 13; page 34, lines 25–28; page 37, line 10 to page  
6 40, line 2; and page 42, lines 11–28.

7 **III. CONCLUSION**

8 The business of administering a decree adjudicating all water rights in a 225-square mile  
9 watershed, relied upon by more than 1 million people and a \$2 billion dollar economy is not  
10 simple task. In a time when vast portions of the State are short of water, the Chino Basin  
11 continues to deliver a sustainable and reliable water supply for the benefit of the region.  
12 Watermaster cannot ensure that the Basin remains well managed if it cannot prudently, budget,  
13 assess, and pay its bills. Ontario’s challenge to the Assessment Package is its right under  
14 Paragraph 31 of the Judgment. But its tactics would deprive Watermaster of the opportunity to  
15 initially address its allegations and continue to delay the business of Watermaster that is  
16 dependent upon collection of annual assessments, laboriously presented and thoroughly vetted  
17 and ultimately approved at each stage of the process. The Reply is overbroad and for all these  
18 reasons the public interest supports the Court sustaining Watermaster’s Objection.

19  
20 Dated: June 3, 2022

BROWNSTEIN HYATT FARBER  
SCHRECK, LLP

21  
22  
23 By: 

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Scott S. Slater  
Bradley J. Herrema  
Laura K. Yraceburu  
Attorneys for  
CHINO BASIN WATERMASTER

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# Attachment A



<b>Argument/Issue</b>	<b>Application Memorandum</b>	<b>Reply Memorandum</b>
<i>Relating to the Extension</i>		
Challenges to Watermaster actions must be filed within 90 days pursuant to Section 31(c) of the Judgment and Ontario requested an extension to 180 days.	4:10-12	37:12-14
Parties' attempt to negotiate did not leave sufficient time to fully develop Ontario's challenge.	4:14-16	43:4 -24
Parties knew of Ontario's challenge, thus there is no harm to the parties by granting an extension.	4:16-18	44:8-12
Precedent exists for granting extension requests.	N	42:11-27
Good cause exists to grant request for extension because Ontario relied on representations by Watermaster during parties' ongoing negotiations.	N	44:13-45:3
Due process should be applied to allow Ontario to fully brief its challenge.	N	43:25-44:3
Watermaster should be estopped from denying an extension because Watermaster was apprised of all relevant facts and knew Ontario would require an extension.	N	43:4-44:3
Extension Subtotal	3	7
<i>Relating to the Challenge</i>		
Factual background of the Chino Basin adjudication, Watermaster approval process and the DYYP	N	9:13 to 24:26
Challenge is based on the grounds of the failure to administer assessments consistent with the Judgment and Court Orders.	4:20-22	6:22-7:1
Standard of Review	N	25:1-11
The 2019 Letter Agreement did not comply with the Watermaster approval process.	N	16:13-20:16; 30:7-31:22

The 2019 Letter Agreement fundamentally changed the recovery side of the DYYP.	N	19:3–20:16
All water produced from the Basin is assessed.	N	20:20–21:18
Cost-shifting \$2.6 million in production costs.	N	21:19–24:26
The Court has previously overturned Watermaster’s actions.	N	25:15–28:2
Watermaster failed to provide notice of the 2019 Letter Agreement.	N	28:4–30:6
Watermaster did not comply with the approval process and therefore lacked the authority to execute the 2019 Letter Agreement.	N	30:7–31:22
No MPI analysis was performed or determination of broad-based benefit made with respect to the 2019 Letter Agreement.	N	31:23–33:13
Ontario’s challenge to both the 2021/22 Assessment Package and 2019 Letter Agreement is timely.	N	37:8–40:2
CVWD and FWC’s withdrawal rights are limited by the local agency agreements.	N	13:5–16:9; 19:16–20:16
Challenge Subtotal	1	13
<b>Total</b>	<b>4</b>	<b>20</b>

# Attachment B



1 PERSONAL APPEARANCES CONTINUED:

2 PETER KAVOUNAS, Attorney at Law, on behalf  
3 of the Chino Basin Watermaster;

4 STEVEN ANDERSON, Attorney at Law, on behalf  
5 of Cucamonga Valley Water District;

6 EDUARDO ESPINOZA, Attorney at Law, on behalf  
7 of Cucamonga Valley Water District;

8 APPEARANCES VIA COURTCALL:

9 CHRIS BERCH, client;

10 BOB BOWCOCK, Attorney at Law, on behalf of  
11 Chino Basin Watermaster;

12 MICHAEL BROWN, Attorney at Law, on behalf  
13 of City of Ontario;

14 SCOTT BURTON, Attorney at Law, on behalf of  
15 City of Ontario;

16 ELIZABETH CALCIANO, Attorney at Law, on  
17 behalf of City of Chino;

18 JEAN CIHIGOYENETCHE, Attorney at Law, on  
19 behalf of Inland Empire Utilities;

20 DAVID CROSLEY, Attorney at Law, on behalf  
21 of City of Chino;

22 JAMES CURATALO, Interested Party, Chino  
23 Basin Watermaster;

24 STEVEN ELIE, Interested Party, Chino Basin  
25 Watermaster;

26 ELIZABETH EWENS, Attorney at Law, on behalf  
of City of Ontario;

FREDERIC FUDACZ, Attorney at Law, on behalf  
of City of Ontario;

ANDREW GAGEN, Interested Party, Monte Vista  
Water;

MIKE GARDNER, Attorney at Law, on behalf of  
Chino Basin Watermaster

1 APPEARANCES VIA COURTCALL (Continued):

2 BRIAN GEYE, Attorney at Law, Chair of  
3 Non-Agricultural Pool;

4 SHAWNDA GRADY, Attorney at Law, on behalf of  
5 Jurupa Community Services;

6 PETE HALL, Interested Party, on behalf of  
7 Chino Basin Watermaster;

8 ALLEN HUBSCH, Claimant, Non-Agricultural  
9 Pool;

10 DAVID DE JESUS, Attorney at Law, on behalf  
11 of Chino Basin Watermaster;

12 COURTNEY JONES, Attorney at Law, on behalf of  
13 City of Ontario;

14 BOB KUHN, Interested Party;

15 BRIAN LEE, John Schatz Client;

16 MARILYN LEVIN, Attorney at Law, on behalf of  
17 The State of California;

18 MANNY MARTINEZ, Attorney at Law, on behalf  
19 of Monte Vista Water District;

20 GINA NOCHOLLS, Attorney at Law, on behalf of  
21 City of Ontario;

22 JEFF PIERSON, Interested Party, on behalf of  
23 Chino Basin Watermaster;

24 CHRIS QUACH, Attorney at Law, on behalf of  
25 City of Ontario;

26 JUSTIN SCOTT-COE, Client, Monte Vista Water  
District;

GENE TANAKA, Attorney at Law, on behalf of  
Cucamonga Valley Water District;

JANINE WILSON, Attorney at Law, on behalf of  
Chino Basin Watermaster;

BRADEN YU, Attorney at Law, on behalf of  
City of Upland;

1 APPEARANCES VIA COURTCALL (Continued):

2 STEVEN KENNEDY, Attorney at Law, on behalf  
3 of Three Valley Municipal Water District  
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25 REPORTED BY: KIMBERLY A. MORROW, CSR-9396  
26 OFFICIAL REPORTER

1 SAN BERNARDINO, CALIFORNIA; FRIDAY, APRIL 8, 2022

2 P.M. SESSION

3 DEPARTMENT S-35 HON. STANFORD REICHERT, JUDGE

4 APPEARANCES:

5 BRAD HERREMA, Attorney at Law, on behalf of  
6 Chino Basin Watermaster;

7 SCOTT SLATER, Attorney at Law, on behalf of  
8 Watermaster;

9 JOHN SCHATZ, Attorney at Law, on behalf of  
10 the Appropriative Pool;

11 JIMMY GUTIERREZ, Attorney at Law, on behalf  
12 of the City of Chino;

13 TRACY EGOSCUE, Attorney at Law, on behalf of  
14 the Agricultural Pool;

15 THOMAS BUNN, III, Attorney at Law, on behalf  
16 of City of Pomona;

17 PETER KAVOUNAS, Attorney at Law, on behalf  
18 of the Chino Basin Watermaster;

19 STEVEN ANDERSON, Attorney at Law, on behalf  
20 of Cucamonga Valley Water District;

21 EDUARDO ESPINOZA, Attorney at Law, on behalf  
22 of Cucamonga Valley Water District;

23 CHRIS BERCH, client;

24 BOB BOWCOCK, Attorney at Law, on behalf of  
25 Chino Basin Watermaster;

26



1 courtroom any questions about what needs to be done  
2 and when I'll come back.

3 MR. SLATER: I think we understand and happy  
4 to give notice.

5 THE COURT: On the phone, any questions?  
6 Going once. Hearing none. Okay. I think we got that  
7 clarified.

8 Let me turn to the motion I'm calling that's  
9 not a motion because it doesn't show up anymore.  
10 That's Ms. Ewens' motion with respect to the  
11 assessment package. I'm going to request that you  
12 refile that because since it's been almost two months  
13 and it hasn't shown up yet, I'll request that you  
14 refile that, please, Ms. Ewens and on the caption  
15 indicate it's a duplicate filing as ordered by the  
16 Court. Because if the clerk's office actually finds  
17 the original motion that you filed, they will probably  
18 throw out the motion that I'm ordering you to -- the  
19 second duplicate motion I'm ordering you to refile  
20 today and that will really confuse it.

21 MS. EWENS: Understood, your Honor.

22 THE COURT: And then I'm going to make -- you  
23 should be able to refile that this week. It's all  
24 prepared, right?

25 MS. EWENS: Yes. We would refile it. It was  
26 filed in February, your Honor. Part of that is

1 mentioned earlier is a request for time under the  
2 judgment paragraph 31(C) to file a challenge. We can  
3 deal with that after we straighten up the clerk's  
4 filings and make sure we have a record of what we  
5 filed in February.

6 THE COURT: Mr. Slater?

7 MR. SLATER: As your Honor may recall, we've  
8 already served it. We have it. We have it in our  
9 possession. We can't get it filed on their behalf  
10 today. We could certainly do it Monday.

11 THE COURT: Pencil in on the caption  
12 duplicate motion of filed pursuant to court order of  
13 April 8, 2022. So if it shows up somewhere again,  
14 I'll be able to distinguish the two documents.

15 Second, I'm going to set a briefing schedule  
16 and hearing date. The hearing date is going to be in  
17 June. It's going to be mid -- the third week in June  
18 on a Friday afternoon. Hang on just a second. We'll  
19 keep the Friday dates. They haven't announced who is  
20 going to replace me in probate. They haven't  
21 announced who is going to take the Watermaster case.

22 The third Friday in June, June 17. That  
23 keeps us away from the 4th of July and away from  
24 Memorial Day. That's June 17 at 1:30. Is that okay  
25 with everybody June 17, 1:30 is going to be the date  
26 for the motion with respect to the assessment

1 packages. Any opposition to the motion on the  
2 assessment package needs to be served and filed by --  
3 it's already been out there for awhile.

4 MR. BUNN: Your Honor, opposition has been  
5 filed.

6 THE COURT: That's right. That's how I knew  
7 about it.

8 MR. SLATER: We're only -- we have one filing  
9 yet presumably which would be the reply to the  
10 opposition.

11 THE COURT: I'm with you.

12 MR. SLATER: We're fully baked with that.

13 THE COURT: I'm going to grant -- I'm going  
14 to advance the motion on the ex parte and grant the  
15 extra ten pages to Ms. Ewens. Mr. Herrema.

16 MR. HERREMA: Yes, your Honor. We did agree  
17 we wouldn't oppose the extra pages. We have a  
18 different understanding what might be contained in the  
19 extra pages.

20 THE COURT: I can't --

21 MR. HERREMA: We agreed so long as it would  
22 not expand beyond the arguments filed itself. We  
23 hadn't seen Ms. Ewens application at the time. It's  
24 clear from the papers she filed that she's effectively  
25 looking to file a new application now that she's on  
26 the case flushing out all the issues that weren't

1 flushed out in the initial February filing which we  
2 know you don't have. We don't think that's  
3 appropriate to expand beyond what's in the application  
4 and now in the opposition.

5 THE COURT: I think Ms. Ewens, you will need  
6 to stick with what you filed initially otherwise it's  
7 going to --

8 MS. EWENS: To clarify --

9 THE COURT: Go ahead.

10 MS. EWENS: I'm sorry, your Honor. I was  
11 going to say two things to clarify first with respect  
12 to the contents of the reply, we're obviously very  
13 aware of the law relative to scope. We certainly want  
14 the opportunity in the reply and afforded by the law  
15 to respond to issues raised in the opposition brief.  
16 I believe that's Ontario's right. Beyond that we  
17 fully understand that.

18 Second, since the Court has postponed the  
19 hearing to June 17, we would request corresponding  
20 extension of the deadline to file a reply, and I  
21 recognize that I have not had an opportunity to speak  
22 with counsel about this because this was coming up  
23 now, but I do represent to you from Ontario's  
24 perspective, the deadline to file the reply on  
25 April 15 was derivative of the rules that provide that  
26 reply briefs are to be filed five business days prior

1 to the hearing. So we would respectfully request to  
2 the Court set the reply brief deadline five business  
3 days prior to June 17.

4 THE COURT: Five days is too short before  
5 June 17 for whoever is going to be handling the case  
6 at that time. I'm certainly not going to give you the  
7 April date. I'm going to extend you the reply date to  
8 give me just a moment. How about because it's going  
9 to be a change in bench officer handling this matter.

10 How about May 27? That's a Friday at  
11 4:00 p.m. when the clerk's office closes. That gives  
12 everyone a chance to look at it and prepare for the  
13 hearing I've scheduled to June 17.

14 MR. SLATER: No objection, your Honor.

15 THE COURT: Thank you, Mr. Slater.

16 I've granted your page extension. You can do  
17 the 40 pages, but remember, counsel has been with me  
18 for a while know I never really graduated from college  
19 in my literature degree Samuel Johnson. I see some  
20 smiles and nods in the courtroom. He was a literary  
21 critic and actually wrote the first dictionary and  
22 Stenographer Mileswell (phonetic) made a great study  
23 of his life. He wrote a letter once and said to the  
24 recipient, I'm sorry this letter is so long. If I had  
25 more time, it would have been shorter. Or we can go  
26 back to one of our great presidents Dwight Eisenhower

1 who would tell his cabinet, Is it down to a page yet?  
2 Please keep that in mind, but you've got the 40 pages  
3 if you need it.

4 MS. EWENS: Thank you, your Honor.

5 THE COURT: So I think I'm done for today.  
6 The two unopposed motions, I can grant them today  
7 because the stay is lifted. Let's get the orders up  
8 for that and I'll sign them right now.

9 MR. HERREMA: May I approach, your Honor?

10 THE COURT: Please. Here we go. Here is the  
11 order on the fourth annual report I'm signing.

12 Here is the order granting the approval of  
13 the update for the rules and regulations that I'm  
14 signing and granting. Done.

15 So we'll process those and get them down to  
16 the clerk's office today. You can take them down if  
17 you want to wait a few minutes.

18 And I think that is a wrap for today.

19 Anything further going once, going twice?

20 MR. SLATER: Thank you, your Honor.

21 THE COURT: Court is adjourned.

22 (The proceedings in the above-entitled  
23 matter were concluded.)

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SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN BERNARDINO

DEPARTMENT S-22

HON. BRYAN FOSTER, JUDGE

CHINO BASIN MUNICIPAL )  
WATER DISTRICT, )

Plaintiff, )

vs. )

CITY OF CHINO, ET AL., )

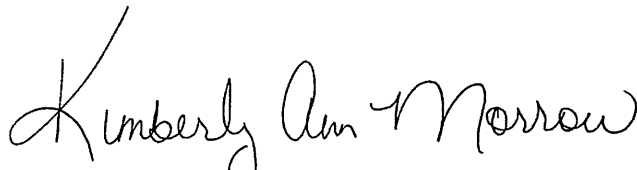
Defendants. )  
----- )

Case No. RCVRS51010

REPORTER'S  
CERTIFICATE

I, KIMBERLY ANN MORROW, Official Reporter  
of the Superior Court of California, County of  
San Bernardino, do hereby certify that the foregoing  
pages, 1 to 58, to the best of my knowledge and  
belief, comprise a full, true and correct  
computer-aided transcript of the proceedings taken in  
the matter of the above-entitled cause held on  
April 8, 2022.

Dated this date May 11, 2022.



-----  
KIMBERLY ANN MORROW, C.S.R.  
Official Reporter, C-9396, RPR, CRR

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 June 3, 2022 I served the following:

1. WATERMASTER'S OBJECTION TO CITY OF ONTARIO'S COMBINED REPLY TO OPPOSITIONS OF WATERMASTER, FONTANA WATER COMPANY AND CUCAMONGA VALLEY WATER DISTRICT, AND INLAND EMPIRE UTILITIES AGENCY TO 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 OR ALTERNATIVELY, CITY OF ONTARIO'S CHALLENGE

/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 June 3, 2022 in Rancho Cucamonga, California.



By: Janine Wilson  
Chino Basin Watermaster



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