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

8 Attorneys for
9 City of Ontario

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

13 CHINO BASIN MUNICIPAL WATER
DISTRICT,

14 Plaintiff,

15 v.

16 CITY OF CHINO, et al.,

17 Defendants.

CASE NO. RCVRS 51010

ASSIGNED FOR ALL PURPOSES TO
HONORABLE GILBERT G. OCHOA

DECLARATION OF ELIZABETH P.
EWENS IN SUPPORT OF CITY OF
ONTARIO'S COMBINED RESPONSE TO
OBJECTIONS OF WATERMASTER,
FONTANA WATER COMPANY,
CUCAMONGA VALLEY WATER
DISTRICT AND INLAND EMPIRE
UTILITIES AGENCY TO COMBINED
REPLY

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: August 31, 2022

Time: 1:30 p.m.

Dept.: S24

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 Response to Objections
7 of the Chino Basin Watermaster (“Watermaster”), Fontana Water Company (“FWC”) and
8 Cucamonga Valley Water District (“CVWD”), and Inland Empire Utilities Agency (“IEUA”) to
9 the Combined Reply in support of its Application for an Order to Extend Time Under Judgment,
10 Paragraph 31(c) to Challenge Watermaster Action/Decision on November 18, 2021 to Approve the
11 FY 2021/2022 Assessment Package and Challenge (“Application”).

12 4. On June 3, 2022, Watermaster, FWC and CVWD, and IEUA (collectively, the
13 “Opposing Parties”) filed their respective objections to Ontario’s Combined Reply and evidence
14 submitted in support thereof.

15 5. On June 9, 2022, I contacted counsel for the Opposing Parties in an effort to further
16 meet and confer on potentially narrowing the issues for the Court’s review. Ontario proposed
17 further briefing by all the parties in order to resolve certain issues or objections raised. By email
18 dated June 9, counsel for Watermaster represented that he would communicate the proposal to the
19 Watermaster Board, however he would not recommend it. I received no further response from
20 Watermaster’s counsel, and I understand this to be a rejection of Ontario’s offer. By email dated
21 June 10, counsel for FWC and CVWD also rejected Ontario’s proposal. I did not receive any
22 response to the proposal from IEUA’s counsel. Attached hereto as Exhibit A are true and correct
23 copies of my meet and confer email correspondence with counsel.

24 I declare under penalty of perjury under the laws of the state of California that the foregoing
25 is true and correct. Executed on this 1st day of July, 2022, at Sacramento, California.

26
27 
Elizabeth P. Ewens

EXHIBIT A

From: Slater, Scott <SSlater@bhfs.com>
Sent: Thursday, June 9, 2022 7:59 PM
To: Ewens, Elizabeth P.
Cc: Thomas S. Bunn; Herrema, Brad; Jean Cihigoyenette; marty@thejclawfirm.com; Scott Burton; Courtney Jones; Christopher T. Quach; Brown, Michael B.
Subject: Re: Meet and confer re: Parties' Opposition to Ontario's Reply [SR-ACTIVE.FID5390434]

Ok. Thank you for the helpful clarification. The direction we received from Watermaster was to oppose your filing. Your proposal would be to accept your filing and withdraw our evidentiary objection to your reply - settling instead for an expanded (supplemental) opposition. I am willing to inform the Board of your proposal and to request a Board discussion at their regularly scheduled Board meeting on Thursday, June 23 (two weeks from today). But it is not something that I am inclined to recommend.

If your client has a settlement proposal on the merits, we are always happy to listen.

Sincerely,
Scott

Sent from my iPhone

On Jun 9, 2022, at 5:23 PM, Ewens, Elizabeth P. <elizabeth.ewens@stoel.com> wrote:

We would like to know by Monday (June 13) whether you and the others agree to the proposed briefing schedule and the withdrawal of *your filings submitted on Friday*. Put another way, we want to know by Monday whether you agree to the **highlighted paragraph** in my email, below.

If we have a stipulation, and assuming it is accepted by the Court, then Watermaster and Opposing Parties' supplemental opposition brief would be due on July 13, and Ontario's supplemental reply brief would be due on August 10, with the page limitations as set forth in my email.

Let me know if that clarifies things for you.

Thanks.

Elizabeth

From: Slater, Scott <SSlater@bhfs.com>
Sent: Thursday, June 9, 2022 5:15 PM
To: Ewens, Elizabeth P. <elizabeth.ewens@stoel.com>
Cc: Thomas S. Bunn <tombunn@lagerlof.com>; Herrema, Brad <BHerrema@bhfs.com>; Jean

Cihigoyenette <jean@thejclawfirm.com>; marty@thejclawfirm.com; Scott Burton <SBurton@ontarioca.gov>; Courtney Jones <CJones@ontarioca.gov>; Christopher T. Quach <CQuach@ontarioca.gov>; Brown, Michael B. <michael.brown@stoel.com>
Subject: Re: Meet and confer re: Parties' Opposition to Ontario's Reply [SR-ACTIVE.FID5390434]

I am getting cross chatter from other counsel. Sorry. You want to hear back from us regarding your proposal on July 13 not June 13? Please confirm.

Sent from my iPhone

On Jun 9, 2022, at 5:00 PM, Ewens, Elizabeth P. <elizabeth.ewens@stoel.com> wrote:

Hi Scott –

The proposed deadline is July 13, which is about five weeks from now. In proposing the schedule that we did, we tried to provide the parties with a fair amount of time to prepare supplemental briefs, while also allowing sufficient time in advance of the hearing for the Court to review all submitted briefs on these complex issues.

I hope that helps.

Elizabeth

From: Slater, Scott <SSlater@bhfs.com>
Sent: Thursday, June 9, 2022 4:45 PM
To: Ewens, Elizabeth P. <elizabeth.ewens@stoel.com>
Cc: Thomas S. Bunn <tombunn@lagerlof.com>; Herrema, Brad <BHerrema@bhfs.com>; Jean Cihigoyenette <jean@thejclawfirm.com>; marty@thejclawfirm.com; Scott Burton <SBurton@ontarioca.gov>; Courtney Jones <CJones@ontarioca.gov>; Christopher T. Quach <CQuach@ontarioca.gov>; Brown, Michael B. <michael.brown@stoel.com>
Subject: Re: Meet and confer re: Parties' Opposition to Ontario's Reply [SR-ACTIVE.FID5390434]

Elizabeth:

What is the reason for the June 13 deadline? The matter is not set for calendar until August 31? Are we missing something?

Sent from my iPhone

On Jun 9, 2022, at 11:21 AM, Ewens, Elizabeth P.
<elizabeth.ewens@stoel.com> wrote:

Counsel:

As we have done since our entry into this case, I am writing again to see whether the parties finally can reach what should be an uncontroversial agreement to ensure that the Court has the benefit of full briefing on issues pertaining to Ontario's Application and Challenge. Even more so, with the assignment of a new judge and the continuance of the hearing to August 31, 2022, we believe there is an opportunity both to ensure that Judge Ochoa has the benefit of full merits briefing and also to resolve the issues and allegations raised in your clients' respective objections and motions relating to Ontario's Reply Brief.

To that end, as a compromise and as a good faith attempt to narrow issues before the Court, Ontario would agree to stipulate to limited supplemental briefing consisting of a supplemental opposition by Watermaster, Fontana, Cucamonga, and IEUA (collectively "Watermaster and Opposing Parties") up to a combined total of 25 pages to be divided as your clients so choose between Watermaster and Opposing Parties, due on July 13, 2022. Ontario then would have an opportunity to file a 15 page combined supplemental reply brief by due by August 10, 2022. In return for this opportunity for supplemental briefing (which should address and resolve Watermaster and Opposing Parties' issues raised in your clients' respective June 3, 2022 oppositions), Watermaster and Opposing Parties will withdraw all objections and motions relating to Ontario's Reply Brief filed last week.

While the parties clearly have differing opinions regarding the substance of the underlying challenge, certainly the parties can and should be able to at least agree that the DYYP and governance matters at issue are critical to Basin operations and are deserving of full and fair briefing and consideration by the Court. To that end, it is our sincere hope that you and your clients will agree to the above offer so that the parties and the Court can focus on what really matters.

Please let us know your response no later than the close of business, Monday, June 13. If your clients are agreeable, we can circulate a proposed stipulation for review and eventual filing with the Court.

Thank you.

Elizabeth

Elizabeth Ewens | Partner
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Direct: (916) 319-4667 | Mobile: (530) 220-2227
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From: Ewens, Elizabeth P. <elizabeth.ewens@stoel.com>
Sent: Tuesday, June 14, 2022 5:45 PM
To: Thomas S. Bunn; Slater, Scott; Herrema, Brad; Jean Cihigoyenette; marty@thejclawfirm.com
Cc: Brown, Michael B.
Subject: RE: Meet and confer re: Parties' Opposition to Ontario's Reply [SR-ACTIVE.FID5390434]

Tom,

Ontario obviously disagrees with your characterization of the filings as "late-filed documents".

That said, thank you for responding to the proposal.

Elizabeth

From: Thomas S. Bunn <tombunn@lagerlof.com>
Sent: Friday, June 10, 2022 12:05 PM
To: Ewens, Elizabeth P. <elizabeth.ewens@stoel.com>; Slater, Scott <SSlater@bhfs.com>; Herrema, Brad <BHerrema@bhfs.com>; Jean Cihigoyenette <Jean@thejclawfirm.com>; marty@thejclawfirm.com
Cc: Brown, Michael B. <michael.brown@stoel.com>
Subject: RE: Meet and confer re: Parties' Opposition to Ontario's Reply [SR-ACTIVE.FID5390434]

Elizabeth,

Fontana Water Company and Cucamonga Valley Water District continue to oppose Ontario's attempt to rely on late-filed documents. Accordingly, we reject your proposal.

Tom

Tom Bunn
Partner
Public Agency

tombunn@lagerlof.com
626.793.9400



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

Sent: Thursday, June 9, 2022 11:22 AM

To: Slater, Scott <SSlater@bhfs.com>; Thomas S. Bunn <tombunn@lagerlof.com>; Herrema, Brad <BHerrema@bhfs.com>; Jean Cihigoyenette <Jean@thejclawfirm.com>; marty@thejclawfirm.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>; Ewens, Elizabeth P. <elizabeth.ewens@stoel.com>

Subject: Meet and confer re: Parties' Opposition to Ontario's Reply [SR-ACTIVE.FID5390434]

Counsel:

As we have done since our entry into this case, I am writing again to see whether the parties finally can reach what should be an uncontroversial agreement to ensure that the Court has the benefit of full briefing on issues pertaining to Ontario's Application and Challenge. Even more so, with the assignment of a new judge and the continuance of the hearing to August 31, 2022, we believe there is an opportunity both to ensure that Judge Ochoa has the benefit of full merits briefing and also to resolve the issues and allegations raised in your clients' respective objections and motions relating to Ontario's Reply Brief.

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While the parties clearly have differing opinions regarding the substance of the underlying challenge, certainly the parties can and should be able to at least agree that the DYYP and governance matters at issue are critical to Basin operations and are deserving of full and fair briefing and consideration by the Court. To that end, it is our sincere hope that you and your clients will agree to the above offer so that the parties and the Court can focus on what really matters.

Please let us know your response no later than the close of business, Monday, June 13. If your clients are agreeable, we can circulate a proposed stipulation for review and eventual filing with the Court.

Thank you.

Elizabeth

Elizabeth Ewens | Partner

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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 July 1, 2022 I served the following:

1. DECLARATION OF ELIZABETH P. EWENS IN SUPPORT OF CITY OF ONTARIO'S COMBINED RESPONSE TO OBJECTIONS OF WATERMASTER, FONTANA WATER COMPANY, CUCAMONGA VALLEY WATER DISTRICT AND INLAND EMPIRE UTILITIES AGENCY TO COMBINED REPLY 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

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.

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 July 1, 2022 in Rancho Cucamonga, California.



By: Janine Wilson
Chino Basin Watermaster

PAUL HOFER
11248 S TURNER AVE
ONTARIO, CA 91761

JEFF PIERSON
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