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

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

CHINO BASIN MUNICIPAL WATER DISTRICT,

Plaintiff,

v.

CITY OF CHINO, et al.,

Defendants.

CASE NO. RCVRS 51010

[ASSIGNED FOR ALL PURPOSES TO THE HONORABLE GILBERT G. OCHOA]

CITY OF ONTARIO'S NOTICE OF MOTION AND MOTION FOR AWARD OF ATTORNEY'S FEES AND COSTS

Hearing:
Date: October 31, 2025
Time: 10:00 a.m.
Dept: R-17

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NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on October 31, 2025, at 10:00 a.m. in Department R-17 of the above-entitled Court located at 8303 Haven Avenue, Rancho Cucamonga, California, the City of Ontario will move the Court for an award of costs, including reasonable attorney's fees. This motion will be based upon Civil Code section 1717, Code of Civil Procedure section 1033.5, Section 9.2(d) of the Peace Agreement, and the Opinion issued by the Court of Appeal in case no. E080457 (consolidated with case no. E082127).

This motion is also based on this Notice of Motion, the Memorandum of Points and Authorities, Request for Judicial Notice and the Declarations of Scott Burton and Elizabeth P. Ewens, served and filed concurrently herewith, on the records and file of the Court, and on such evidence as may be presented at the hearing on this motion.

Respectfully submitted,

Dated: July 29, 2025

STOEL RIVES LLP

By:_____
ELIZABETH P. EWENS
MICHAEL B. BROWN
Attorneys for
City of Ontario

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The City of Ontario ("Ontario") brings this motion for an award of costs, including attorney's fees, against Inland Empire Utilities Agency ("IEUA"), Cucamonga Valley Water District ("Cucamonga"), and Fontana Union Water Company ("Fontana") (collectively, "Opposing Parties"). Ontario is entitled to recover attorney's fees expended in its successful challenge to Opposing Parties', Three Valleys Municipal Water District's ("Three Valleys"), and Chino Basin Watermaster's ("Watermaster") implementation of unauthorized changes to the Dry Year Yield Program ("DYY Program") and Watermaster's corresponding *ultra vires* assessments which were contrary to the 1978 Judgment, the Peace Agreement, and the other agreements and orders governing management of the Chino Groundwater Basin ("Basin") and the DYY Program.

Ontario challenged the fiscal year ("FY") 2021/2022 and 2022/2023 assessment packages ("Assessment Packages") to remedy significant harm to Ontario from cost-shifting triggered by the unauthorized utilization of the DYY Program by Opposing Parties in a manner that substantially increased assessments charged to Ontario at the same time that it bestowed financial windfalls to the Opposing Parties, most especially Cucamonga and Fontana. Specifically, the injury to Ontario stemmed from Watermaster's failure to levy assessments on the groundwater produced as part of the DYY Program based on an informal 2019 letter agreement between Watermaster staff, the Metropolitan Water District, Three Valleys, and IEUA ("2019 Letter Agreement")[1] that was used to justify the exemption of water produced from the DYY Program from assessments and shift of those costs to other parties, including Ontario.

Following notice to Opposing Parties and attempts to resolve its claims short of litigation, Ontario formally challenged the Assessment Packages. Those challenges were opposed by Watermaster and the Opposing Parties in trial court proceedings and on appeal. Ultimately, the Court of Appeal held in favor of Ontario, reversed the superior court's interpretation of the 2019 Letter Agreement, and directed the superior court to "enter new orders granting Ontario's

[1] (See Request for Judicial Notice ("RJN"), filed concurrently herewith, Ex. A.)

challenges, and directing Watermaster to correct and amend" the Assessment Packages. (Opinion, pp. 3, 39.)[2]

II. FACTUAL BACKGROUND

Foundationally, this case involves the operation and administration of a storage and recovery program governed not just by the Judgment and DYY Program orders, but by the Peace Agreement.[3] The Judgment acknowledges the "substantial amount of available groundwater storage capacity" for "storage and conjunctive use of supplemental water with Basin Waters." (Opinion, p. 6.) The Judgment also enjoins the unauthorized storage and withdrawal of supplemental water other than pursuant to an agreement, compels the adoption of uniformly applicable rules, and precludes operations "which will have a substantial adverse impact on other producers." (*Ibid.*) Consistent with these Judgment terms, the parties later negotiated, and the superior court approved, the Peace Agreement governing storage and recovery projects like the DYY Program. As described by the Court of Appeal:

> At the superior court's direction, Watermaster prepared the Basin's management program – the Optimum Basin Management Program (OBMP) – to address groundwater quantity and quality issues and regulate withdrawals. The OBMP was divided into two phases: Phase 1 (the report) was adopted in 1999, and Phase II (implementation plan) was approved by the court in 2000. The OBMP was subject to intensive settlement negotiations that led to various parties to the Judgment executing the Peace Agreement in June 2000 to resolve their disputes regarding "a number of matters pertaining to the power and authority of the Court and Watermaster under the Judgment ..." It addresses implementation of the OBMP and allows Watermaster to administer transfers, recharge, and storage/recovery of water. The Peace Agreement, amended in 2004 and 2007, prohibits the approval of a water storage and recovery project "if it ... will cause any Material Physical Injury to any party to the Judgment or the Basin."

(*Id.*, pp. 6-7.) Importantly, the DYY Program agreements and DYY Program orders all derive not just from the Judgment, but from the Peace Agreement which set forth the mandatory rules

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[2] (RJN, Ex. B [Opinion, issued April 18, 2025, in Case No. E080457 (consolidated with Case No. E082127)].)

[3] Parties entered into two Peace Agreements: a June 29, 2000 Peace Agreement (RJN, Ex. C), and a subsequent Peace II Agreement (*id.*, Ex. N). Unless noted otherwise herein, all references to the "Peace Agreement" are to the June 29, 2000 Peace Agreement.

governing storage and recovery programs within the Basin. The core of this dispute arises from decisions by Watermaster and the Opposing Parties to depart from the uniform application of the Judgment, Peace Agreements, and court orders[4] governing the DYY storage and recovery program to the economic detriment of Ontario.

Each year, Watermaster prepares an Assessment Package detailing the accounting for the production and use of Basin water, and historically this included the assessment of stored water produced as part of the DYY Program by parties with a local agency agreement authorizing participation. This changed following the 2019 Letter Agreement and the decision to use that letter to justify the unauthorized production of DYY Program water and to exempt certain parties from assessments. First, the 2019 Letter Agreement allowed parties to produce extra stored groundwater from the DYY Program account without a corresponding change or reduction in production of imported surface water. Second, the 2019 Letter Agreement was interpreted to allow parties without a local agency agreement (Fontana) to make withdrawals from the DYY Program storage account. Third, the 2019 Letter Agreement was used to exempt groundwater produced from the DYY Program account from assessments.

The Opposing Parties used the 2019 Letter Agreement to their benefit, and to specifically shift assessments from CVWD and Fontana to other parties including Ontario. Ontario repeatedly raised objections, as far back as 2018,[5] effectively giving the Opposing Parties notice of the dispute and their default, including through:

- A November 1, 2021 letter to Mr. Kavounas, Watermaster General Manager, and the Appropriative Pool (which included Cucamonga) detailing Ontario's objections to the Assessment Package and the use of the 2019 Letter Agreement to exempt production from the DYY Program from assessments (RJN, Ex. H at ¶ 4, Ex. 1);
- A January 5, 2022 meeting between Watermaster, Ontario, Cucamonga, and Fontana to discuss and negotiate resolution of the DYY Program and assessment issues (*Id.*, at ¶ 7);

[4] (See RJN, Exs. K [June5, 2003 Order], L [June 24, 2004 Order].)
[5] (See RJN, Exs. F at p. 10 (¶ 34), Ex. 7 [July 31, 2018 Email from Katie Gienger to Elizabeth Hurst re DYY Letter revisions to clarify], Ex. G at Ex. A [June 26, 2018 Email from Katie Gienger to Elizabeth Hurst].)

- A January 24, 2022 letter to Mr. Kavounas, copying the Watermaster Board (including IEUA, Cucamonga, and Fontana) and the Appropriative Pool Chair detailing concerns with the administration of the DYY Program (*Id.*, at ¶ 9, Ex. 2);

- A January 27, 2022 meeting of the Watermaster Board addressing Ontario's concerns with the DYY Program and Assessment Package (*Id.*, at ¶ 10);

- A February 11, 2022 email requesting an extension of time to file a challenge given the ongoing good faith effort to resolve the issue (*Id.*, at ¶ 13; Declaration of Scott Burton ("Burton Decl."), filed concurrently, ¶¶ 4-5, Ex. 1).

Watermaster rejected Ontario's request for an extension of time, and when Ontario filed an application for extension of time with the Court, it was opposed not only by Watermaster but also by each of the Opposing Parties. (Burton Decl., ¶ 4-5; see also Opinion, p. 18 [RJN, Ex. B].)[6]

The Opposing Parties each had full notice of Ontario's claims relating to the misadministration of the DYY Program and the cost-shifting resulting from the 2019 Letter Agreement. To obtain redress, over the course of three years, Ontario was required to file two actions in the superior court to challenge the Assessment Packages and pursue a consolidated appeal. These proceedings were heavily contested by Opposing Parties, but ultimately Ontario prevailed and received the primary relief sought – an order directing the correction of the Assessment Packages. Pursuant to the terms of the Peace Agreement, Ontario is entitled to recoup its attorney's fees and costs as the prevailing party.

III. ARGUMENT

A. The Peace Agreement entitles the prevailing party to an award of fees.

California Civil Code section 1717 specifically authorizes the court to award attorney's fees to the prevailing party when such fees are provided for by contract. "When a party obtains a simple, unqualified victory by completely prevailing on or defeating all contract claims in the action and the contract contains a provision for attorney fees, section 1717 entitles the successful party to

[6] Notably, in addition to the listed communications between Ontario, Watermaster, and Opposing Parties, Watermaster also published and distributed staff reports to all parties, including Opposing Parties, on November 18, 2021 and January 27, 2022 in response to the concerns raised by Ontario. (RJN, Ex. O at ¶¶ 3-8 [Declaration of Christopher Quach, filed Feb. 17, 2022].) This underscores the fact Opposing Parties, at a bare minimum, had both constructive notice and actual notice of Ontario's claims and an ample opportunity to cure their default but failed to do so, choosing instead to actively oppose Ontario's claims through and including on appeal.

recover reasonable attorney fees incurred in prosecution or defense of those claims." (*Scott Co. of California v. Blount, Inc.* (1999) 20 Cal.4th 1103, 1109.)

Here, the Peace Agreement specifically provides that the prevailing party is entitled to recover attorney's fees. Indeed, pursuant to the express terms of the Peace Agreement, the award of fees to the prevailing party is mandatory. (Peace Agreement, § 9.2(d) ["In any adversarial proceedings between the Parties . . . the prevailing Party *shall* be entitled to recover their costs, including reasonable attorney's fees." (Emphasis added)].)[7]

B. Ontario is entitled to an award of fees under the Peace Agreement.

Ontario, a party to the Peace Agreement, brings its motion for attorney's fees against Opposing Parties, all also parties to the Peace Agreement. (Peace Agreement, pp. 62, 63, 65.) Ontario's claims in this action were based on the unlawful operation of the DYY Program and Opposing Parties' corresponding default under the Peace Agreements that govern the operation of storage and recovery programs in the Basin. Ontario satisfied the procedural requirements set forth in the Peace Agreement and, as the prevailing party, is entitled to attorney's fees.

1. Ontario's claims arose under the Peace Agreement.

Ontario challenged the unauthorized amendment of the DYY Program through the adoption and implementation of the 2019 Letter Agreement (signed by IEUA). The Peace Agreement sets forth the terms for the OBMP governing basin operations, including requirements relating to storage and recovery programs like the DYY Program. The dispute arose as a result of the parties' failure to perform or observe the requirements for storage and recovery under the Peace Agreement and related DYY Program orders. In the resulting litigation, Opposing Parties defended their collective failure to abide by the substantive and procedural requirements found in the Judgment, the Peace Agreement, DYY Program orders, and DYY Program agreements.

The orders approving the DYY Program each expressly recognize that the Peace Agreements serve as the foundation for, and govern, the development and implementation of storage and recovery programs in the Basin. (RJN, Ex. K [June 5, 2003 Order], Ex. L [June 24,

[7] (See RJN, Ex. C [Peace Agreement, dated June 29, 2000].)

2004 Order].) By way of example, the Peace Agreement prohibits storage or recovery of water without an agreement with Watermaster. (Peace Agreement, § 5.2(a)(ii).) This Court also has recognized that prior to any modification of the DYY Program, there must be an analysis under the Material Physical Injury standard of the Peace Agreement. (See RJN, Ex. D at p. 32 [Ontario's Combined Reply in Opposition, filed May 27, 2022].) In the present case, the appellate court specifically recognized the provisions of the Peace Agreement that require priority to be given to storage and recovery programs that provide "broad mutual benefits to the parties to the Judgment" and ultimately determined that the 2019 Letter Agreement and Assessment Packages was inconsistent with the operable court orders and agreements. (See Opinion, pp. 35, fn. 13, 38.)

It is notable that in addition to being parties to the Peace Agreement, IEUA, Cucamonga and Fontana were represented on the Watermaster Board during the relevant time period, giving them a level of control over Watermaster's actions in adopting the 2019 Letter Agreement. (Burton, Decl., ¶¶ 8-9.) All Opposing Parties also fiercely opposed Ontario's challenge to the 2019 Letter Agreement and Assessment Packages. (See RJN, Ex. E at p. 4 ["FWC and CVWD are among the primary targets of the Ontario filing."].) Under such circumstances, assessing fees against IEUA, Fontana, and Cucamonga is appropriate both under the Peace Agreement and the facts of this case.

2. Opposing Parties were in default under the Peace Agreement.

In 2018, IEUA proposed revisions to the DYY Program that ultimately resulted in the development and adoption of the 2019 Letter Agreement. (See RJN, Ex. D at pp. 16-17.) Through the application of the 2019 Letter Agreement to the Assessment Packages, Cucamonga effectively doubled its annual participation "take" capacity or withdrawals from the DYY Program and Fontana produced 2,500 acre feet of water from the DYY Program without a local agency agreement, and were permitted to do so even though it was not a dry year and the voluntary production occurred in the absence of a "call" by Metropolitan. All of this was in contravention of the terms of the Peace Agreement and related DYY orders governing this storage and recovery program. (See *id.* at pp. 19-20; see also RJN, Exs. K-L.) While it did not produce water from the DYY Program, IEUA, as the architect of the 2019 Letter Agreement and the subsequent unauthorized changes to the DYY Program, flouted its obligations under the Peace Agreement.

3. Ontario provided notice of default.

Section 9.1 of the Peace Agreement defines a "default" as follows:

> (a) A Party fails to perform or observe any term, covenant, or undertaking in this Agreement that it is to perform or observe and such failure continues for ninety (90) days from a Notice of Default being sent in the manner prescribed in Section 10.13.

Section 9.2 of the Peace Agreement, in turn, provides for remedies in the event of a default, including the recovery of attorney's fees.

As early as June 26, 2018, Ontario put the parties on notice that it believed any changes to the methodologies used to calculate assessments based on the 2019 Letter Agreement must be addressed through formal amendments to the DYY Program. (RJN, Ex. F at p. 10 (¶ 34), Ex. 7 [July 31, 2018 Email from Katie Gienger to Elizabeth Hurst re DYY Letter revisions to clarify]; RJN, Ex. G at Ex. A [June 26, 2018 Email from Katie Gienger to Elizabeth Hurst].) However, Ontario could not fully evaluate the possible effects of IEUA's proposal.[8] Importantly, the true impact of the 2019 Letter Agreement was not fully known until the release of the draft 2021/2022 Assessment Package – exempting Cucamonga and Fontana from assessments for water ostensibly produced from the DYY Program under the 2019 Letter Agreement. Only at that time did Ontario have a full understanding that Opposing Parties and Watermaster would be implementing the 2019 Letter Agreement and making fundamental changes to the DYY Program in a manner that was entirely at odds with the Judgment, the Peace Agreement, and the DYY Program orders in effect.

On November 1, 2021, Ontario sent a letter to the Watermaster (which included both IEUA and Cucamonga) and all Appropriative Pool parties (including Cucamonga and Fontana) to raise concerns with the 2021/2022 Assessment Package. The letter specifically identified the issues Ontario later raised in this litigation. Specifically, Ontario objected to the changes to the assessment methodology without formal approval through the Watermaster process. (RJN, Ex. H at Ex. A.) The Watermaster Board adopted the 2021/2022 Assessment Package on November 18, 2021. (*Id.* at p. 3 (¶ 6).) In an effort to avoid litigation, Ontario met with Watermaster, Cucamonga, and

[8] Notably, the 2019 Letter Agreement was never even mailed to Ontario and Ontario did not have full notice of the 2019 Letter Agreement.

Fontana to address Ontario's concerns and objections to the Assessment Package. (*Id.* (¶¶ 7-8).) On January 24, 2022, Ontario sent another letter to Watermaster and to the Watermaster Board, including both IEUA and Cucamonga, stating that "Watermaster is allowing the recovery of water from the DYYP storage account that is not consistent with the storage agreement approved via the Watermaster process and ordered by the Court in 2004" and described the significant inconsistencies with the Judgment, agreements, and orders governing water storage and recovery projects. (*Id.* at Ex. 2.)

These communications, including the November 1, 2021 and January 24, 2022 letters, served as Ontario's notice of default under Peace Agreement Section 9.1(a). The November 1 letter specifically apprised the Opposing Parties of the legal issues and impacts associated with the application of the 2019 Letter Agreement to the assessment package.[9]

In sum, as early as 2018, IEUA, Cucamonga, and Fontana had notice of Ontario's concerns related to IEUA's proposal, and by November 1, 2021 Ontario sent, and the Opposing Parties received, formal written notice of its objections to Watermaster's implementation of the 2019 Letter Agreement.

Alternatively, strict compliance with the notice requirement of the Peace Agreement should be excused. Under the Judgment, any party seeking review of a Watermaster action must file an action within 90 days from the date of such action. (Judgment, § 31(c) [see RJN, Ex. I].) On November 18, 2021, the Watermaster Board approved the 2021/2022 Assessment Package. (RJN, Ex. H at p. 3 (¶ 6).) Ontario requested an extension of time to file its motion contesting Watermaster's 2021/2022 Assessment Package in order to allow the parties to negotiate a resolution to address Ontario's concerns. (*Id.* at p. 4 (¶ 13).) Watermaster consulted Fontana and Cucamonga

[9] Although the Peace Agreement requires a notice of default to be served in accordance with the provisions of Section 10.13, it does not specify the form or content of the notice. (See Peace Agreement, § 9.1(a).) Because Ontario's November 1, 2021 and January 24, 2022 letters fully put the Opposing Parties on notice of their noncompliance, they meet the notice requirements under the Peace Agreement, as well as the intent of the notice provision. (See *Pacific Gas & Elec. Co. v. State Bd. of Equalization* (1955) 134 Cal.App.2d 149, 155 [holding that notice of disallowance was sufficient where statute did not provide requirements for form or content of notice and the notice set forth the claim with reasonable specificity].)

regarding the extension, which they did not support. Ultimately, the Officers of Watermaster directed that Watermaster deny the extension. (Burton Decl., ¶¶ 4-6.) Because its request for extension was denied, it was impossible for Ontario to both provide other or additional notice to comply with the 90-day notice of default provisions in Section 9.1 of the Peace Agreement (and, correspondingly, to give Opposing Parties an additional 90-day period to cure their default) and also timely file a challenge to Watermaster's 2021/2022 Assessment Package within the limitations period under the Judgment.

Because Watermaster, Cucamonga, and Fontana denied Ontario an extension, rendering it impossible to comply with the 90-day notice of default requirement under the Peace Agreement, the Court should excuse strict compliance with the 90-day notice requirement. (*City of Hollister v. Monterey Ins. Co.* (2008) 165 Cal.App.4th 455, 490 (*City of Hollister*); *Jacobs v. Tenneco West, Inc.* (1986) 186 Cal.App.3d 1413, 1418.) "It is hornbook law that where one contracting party prevents the other's performance of a condition precedent, the party burdened by the condition is excused from performing it, and the benefited party's duty of performance becomes unconditional."[10]

Moreover, California common law has long recognized that this Court has equitable power to excuse the nonoccurrence of a condition precedent where the nonoccurrence of such condition would work a forfeiture. (*Root v. American Equity Specialty Ins. Co.* (2005) 130 Cal.App.4th 926, 930 (*Root*).) In *Root*, an attorney sued his malpractice insurer for breach of contract where a claim had been filed in court prior to the end of his malpractice insurance policy period, but the attorney did not receive notice of the claim until shortly after the policy expired. There, the court held that it would be inequitable for the attorney's insurer to deny coverage where the attorney had done everything possible to comply with the insurance contract. Importantly, although *Root* involved an

[10] (*City of Hollister*, *supra*, 165 Cal.App.4th at p. 490.) *City of Hollister* involved an insurance claim where the insurer actively refused to cooperate with the insured to obtain quotes to replace a building after a fire. The City brought an action to have the insurer estopped from denying insurance coverage due to the City's failure to enter into a contract within 180 days to have the building replaced. The court held that the insurer was estopped because it refused to cooperate in good faith with the City to obtain the requisite contract.

insurance claim, the court relied on "California's common law rule that conditions can be excused if equity requires it." (*Id.* at p. 948.)

Here, it would be inequitable to hold that Ontario has forfeited its claim to attorney's fees when it would have been impossible to provide a timely notice of default *and* file the underlying action within the limitations period. Ontario repeatedly voiced its concerns about the effect of the 2019 Letter Agreement, but it was not until approval of the 2021/2022 Assessment Package that Ontario had any formal notice of the true effect of the 2019 Letter Agreement. Simply put, Ontario provided extensive notice to Watermaster and to Opposing Parties that their ultimate implementation of the 2019 Letter Agreement was contrary to the Judgment, Peace Agreement, and other controlling orders and agreements. Watermaster and Opposing Parties had multiple opportunities to cure their default but failed to do so. Instead, Opposing Parties ignored Ontario's concerns and forced Ontario to seek redress with the Court.

C. Ontario is the prevailing party.

Ontario argued both at the trial court and on appeal that the 2019 Letter Agreement, Watermaster's implementation of the 2019 Letter Agreement and the Opposing Parties' use of the DYY Program to avoid assessments were contrary to the Judgment, DYY Orders, and the Peace Agreement. The trial court ruled against Ontario, holding, in part, that Ontario's challenges were time-barred. The Court of Appeal reversed the trial court's orders and directed that Watermaster correct and amend the Assessment Packages, granting Ontario the specific relief it requested. (Opinion, p. 39.) The Court of Appeal awarded Ontario its costs, establishing that it is the prevailing party. (Cal. Rules of Court, rule 8.278(a)(2).) A plaintiff is a prevailing party when it succeeds on any significant issue in the litigation that achieves some or all of the benefit in bringing the suit. (*Blue Mountain Enterprises, LLC v. Owen* (2022) 74 Cal.App.5th 537, 558.) In sum, Ontario obtained the primary relief it sought – correction of the Assessment Packages.

D. Ontario is entitled to all of its attorney's fees incurred in this matter.

Ontario is entitled to recover all attorney's fees incurred in this case, not just its fees on appeal. Attorney's fees provided for by contract are elements of costs of suit. (Code Civ. Proc.,

§ 1033.5, subd. (a)(10)(A).) Therefore, the trial court has authority to award fees incurred both in the trial court and on appeal. (*Butler-Rupp v. Lourdeaux* (2007) 154 Cal.App.4th 918, 924.)

E. Ontario is entitled to recover reasonable attorney's fees as determined under the lodestar formula.

California courts apply the lodestar method to calculate reasonable attorney's fee awards. The three basic steps in calculating attorney's fees under the lodestar method are: (1) establish a "lodestar" amount, which is the product of the hours expended by counsel and the reasonable hourly rate; (2) determine if the rate charged by the attorney is reasonable; and (3) adjust the lodestar amount, as necessary and in the court's discretion, to reach a figure that is reasonable. (*PLCM Group v. Drexler* (2000) 22 Cal.4th 1084, 1095 (*PLCM Group*).) The lodestar method of calculating attorney's fees is the proper method unless the statute awarding attorney's fees substitutes another method of calculation. (See *Meister v. Regents of University of California* (1998) 67 Cal.App.4th 437, 448-449.) Paralegal fees are properly included as a component of attorney's fees in the lodestar calculation. (*Salton Bay Marina, Inc. v. Imperial Irrigation Dist.* (1985) 172 Cal.App.3d 914, 951 [paralegal services are "necessary support services for attorneys . . . [that] are includable within an award of attorney fees"].)

1. Lodestar amount in this case

"'Under the lodestar method, attorney fees are calculated by first multiplying the number of hours reasonably expended on the litigation by a reasonable hourly rate of compensation.'" (*Syers Properties III, Inc. v. Rankin* (2014) 226 Cal.App.4th 691, 697 (*Syers Properties III*), quoting *Chacon v. Litke* (2010) 181 Cal.App.4th 1234, 1259.) The lodestar figure may then be adjusted, based on consideration of factors specific to the case, in order to fix the fee at the fair market value of the legal services provided. (*PLCM Group*, *supra*, 22 Cal.4th at p. 1095.)

a. *The number of hours requested is reasonable and recorded in contemporaneous time sheets.*

Testimony of an attorney as to the number of hours worked on a particular case is sufficient evidence to support an award of attorney's fees, even in the absence of detailed time records. (*Martino v. Denevi* (1986) 182 Cal.App.3d 553, 559.) An attorney should ordinarily receive

compensation for all of the hours reasonably spent, including those relating solely to the fee. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1133.)

Here, Ontario's request for attorney's fees is supported by the declarations of its counsel, Elizabeth Ewens. The time spent drafting motions and briefs, and appearing at hearings in relation to Ontario's challenges was reasonable and necessarily incurred and not duplicative. (Declaration of Elizabeth P. Ewens ("Ewens Decl."), filed concurrently, ¶¶ 8-12.) All of the time on the case was simultaneously recorded on time entry programs, including Carpe Diem, a recognized legal timekeeping system. A summary of the work completed is detailed in counsel's declaration. (*Id.*, ¶¶ 9-12.)

b. *The requested hourly rates are reasonable.*

The reasonable hourly rate is the prevailing rate charged by attorneys of similar skill and experience in the relevant community. (See *PLCM Group, supra*, 22 Cal.4th at p. 1095.) There is no requirement that the reasonable market rate match the actual rate billed, but a court will consider the fact that a client agreed to pay a certain rate per hour. (*Syers Properties III, supra*, 226 Cal.App.4th at p. 701; *Goglin v. BMW of North America, LLC* (2016) 4 Cal.App.5th 462, 473-474 [court upheld hourly rate of $575 and $625 as appropriate hourly rate, where attorney's declaration established this was the amount agreed to by the client and various state and federal courts had previously awarded him attorney's fees for comparable work at comparable hourly rates].)

Ms. Ewens, a partner at Stoel Rives LLP, charged between $445 and $485 per hour in 2021 to 2025. (Ewens Decl., ¶12.) Ms. Ewens was also assisted by attorneys, Michael Brown. Christopher Pooser, Whitney Brown, Janelle Krattiger, Lauren Neuhaus, Max Fujii, and Wade Foster, and paralegal Ha Nguyen with rates between $218 and $595.[11] These rates are within the range of market rates charged for attorneys and paralegals with similar skill and experience in California.

//

[11] A summary of the attorney and paralegal time and rates are provided in the Ewens Decl. filed herewith. (Ewens Decl., ¶¶ 12-21.)

2. Ontario's requested fee award is reasonable.

In determining the reasonableness of the attorney's fees requested, the major factors to be considered are: the nature of the litigation, its difficulty, the amount involved, the skill required and the skill employed in handling the litigation, the attention given, the success of the attorneys' efforts, the attorneys' learning, age, and experience and the type of work demanded, the intricacies and importance of the litigation, the labor and necessity for skilled legal training and ability in trying the case, and the time consumed. (*Erich v. Granoff* (1980) 109 Cal.App.3d 920, 931; *Clejan v. Reisman* (1970) 5 Cal.App.3d 224, 241.)

a. *Nature of the dispute and amount involved*

The 2019 Letter Agreement and its subsequent application to the Assessment Packages had significant financial consequences to Ontario and other members of the Appropriative Pool. The 2021/2022 Assessment Package alone improperly shifted over $1 million in assessment fees away from Cucamonga and Fontana and to Ontario and other members of the Appropriative Pool. (See RJN, Ex. F at pp. 17-18.) The 2022/2023 Assessment Package shifted more than $2.8 million in assessment fees from Cucamonga and Fontana to Ontario and other members of the Appropriative Pool. (RJN, Ex. J at pp. 16-18.) Moreover, the actions taken in response to the 2019 Letter Agreement fundamentally altered the DYY Program without formal approval. Ontario sought to negotiate resolution to its concerns with Watermaster and Opposing Parties, but those efforts were rejected, necessitating filing of this action.

b. *Skill and experience required and employed in this litigation*

Ontario hired Stoel Rives based on the firm's vast experience in water and environmental litigation. (Ewens Decl., ¶ 13.) Elizabeth Ewens has over twenty-five years of experience, including twenty years specializing in water law. Her practice includes the representation of public agencies in complex litigation and groundwater adjudications, and the representation of clients in state and federal administrative, trial court, and appellate proceedings. (*Ibid.*) Mike Brown has over twenty-five years of civil litigation experience, including in the areas of environmental and real estate litigation. (*Id.*, ¶ 14.) Christopher Pooser is an appellate attorney who represents clients before federal and state appellate courts. (*Id.*, ¶ 15.) In the interest of economy, associate attorneys

and paralegals were utilized on aspects of this litigation wherever possible, including preparation of this motion, trial court proceedings, and on appeal.

c. *Attention and labor necessary for litigating this dispute*

Given Watermaster and the Opposing Parties' opposition to an extension of time for Ontario to file its challenge, Fontana's refusal to waive a conflict of interest for Ontario to utilize its existing counsel, and the Opposing Parties' decision to terminate negotiations and force the initiation of litigation, this proceeding required immediate attention and significant effort for new counsel, Stoel Rives. Ontario successfully filed, and defended opposition to, its motion for extension of time, and engaged in significant briefing to support two separate challenges to the Assessment Package, each of which were fully briefed and separately argued. The complexity of the issues involved in the challenges is perhaps best exemplified by scope of the record on appeal, consisting of a combined 19 volumes of the parties' appendix, totaling 6,461 pages. (Ewens Decl., ¶ 5.) Following briefing and arguments in these consolidated appeals, Ontario ultimately prevailed. In the end, the significant time, attention, and labor necessary to obtain relief for Ontario could have been avoided had Opposing Parties paid heed to Ontario's original objections to the Assessment Packages in 2021, and had Opposing Parties not repeated their attempts to again game the 2019 Letter Agreement for the purpose of avoiding the payment of their full assessments in 2022.

d. *Success of attorneys' efforts*

The appellate court reversed the trial court's orders in their entirety. The appellate court agreed with Ontario that the 2019 Letter Agreement "fundamentally changed the recovery aspect of the DYY Program by allowing voluntary production of water from the storage account regardless of party status or performance criteria. The impact of these voluntary takes materially affected the rights of the Operating Parties and other local agencies when Watermaster interpreted and applied the 2019 Letter Agreement inconsistently with the original DYY Program agreements, the Judgment and prior court orders when it calculated/approved the FY 2021/2022 and 2022/2023 Assessment Packages." (Opinion, pp. 38-39.) Although the appellate court did not reach some of the issues raised in Ontario's briefing, it granted the specific relief Ontario sought – revision of the 2021/2022 and 2022/2023 Assessment Packages.

3. The lodestar calculation is reasonable and should be awarded.

A motion for attorney's fees "must include sufficient documentation in support of the time spent by the attorneys on the various tasks so that the court can determine the lodestar figure." (*PLCM Group*, *supra*, 22 Cal.4th at p. 1095.) The amount of attorney's fees requested must be reasonable; however, the fees need not be proportionate to the amount of the underlying claim, or mirror the actual amount charged. (*Niederer v. Ferreira* (1987) 189 Cal.App.3d 1485, 1507-1508; *Syers Properties III*, *supra*, 226 Cal.App.4th at p. 701.)

a. *Stoel Rives Fees*

The total amount of attorney's fees following the initial challenge of the FY 2021/2022 Assessment Package approval is $671,270.87, including the time to draft the present motion. (Ewens Decl., ¶¶ 12, 23-26.)[12] The attorney's fees in this proceeding were based on Ontario's efforts to successfully challenge the implementation of unauthorized changes to the DYY Program and Watermaster's corresponding assessments. Ontario challenged the Assessment Packages to remedy significant harm to Ontario from cost-shifting triggered by the unauthorized utilization of the DYY Program in a manner that substantially increased assessments charged to Ontario at the same time that it bestowed financial windfalls to the Opposing Parties. Based on these facts, and the reasonableness of the time expended, and fees charged, the Court should award Ontario its entire amount of fees. It is anticipated that additional work will be required in the amount of $9,985. (Ewens Decl., ¶ 27.)

b. *Total Fees*

Thus, the total sum of attorney fees requested, through the date of the hearing on this motion and required to bring this matter to completion, result in a total amount of $677,623.87. (Ewen Decl., ¶ 28.)

IV. CONCLUSION

Ontario respectfully requests that the Court grant this motion and award Ontario the full amount of its reasonable attorneys' fees in the amount of $677,623.87 requested herein.

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[12] Although compensable, Ontario does not seek to recover attorney's fees associated with the filing of an extension of time by attorney Charisse Smith in February 2022. (Ewens Decl., ¶ 7.)

Dated: July 29, 2025

STOEL RIVES LLP

By: _____
ELIZABETH P. EWENS
MICHAEL B. BROWN
Attorneys for
City of Ontario

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 action within. My business address is Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, California 91730; telephone (909) 484-3888.

On July 30, 2025 I served the following:

1. CITY OF ONTARIO'S NOTICE OF MOTION AND MOTION FOR AWARD OF ATTORNEY'S FEES AND COSTS

/ X / BY MAIL: in said cause, by placing a true copy thereof enclosed with postage thereon fully prepaid, for delivery by the United States Postal Service mail at Rancho Cucamonga, California, addresses as follows:
See attached service list: Mailing List 1

/___/ 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.
See attached service list: Master Email Distribution List

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

Executed on July 30, 2025 in Rancho Cucamonga, California.

By: Ruby Favela Quintero
Chino Basin Watermaster

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