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14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF SAN BERNARDINO**

16 CHINO BASIN MUNICIPAL WATER
17 DISTRICT,

18 Plaintiff,

19 v.

20 CITY OF CHINO, ET AL.,

21 Defendants.

Case No. RCVRS51010

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

**CHINO BASIN WATERMASTER'S
OPPOSITION TO CITY OF ONTARIO'S
REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF OPPOSITION TO
WATERMASTER'S MOTION FOR
COURT APPROVAL OF CORRECTED
AND AMENDED FISCAL YEARS 2021/22
AND 2022/23 ASSESSMENT PACKAGES**

Date: June 12, 2026
Time: 11:00 a.m.
Dept.: R17

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1 **I. INTRODUCTION**

2 Chino Basin Watermaster (“Watermaster”) respectfully opposes the City of Ontario’s
3 Request for Judicial Notice in Support of Opposition to Watermaster’s Motion for Court
4 Approval of Corrected and Amended Fiscal Years 2021/22 and 2022/23 Assessment Packages
5 (“Ontario RJN”). Watermaster’s underlying motion seeks court approval of the corrected and
6 amended packages prepared after remittitur and the stakeholder review process ordered by this
7 Court. (Watermaster Motion at 1-3, 6-14.) Ontario’s RJN, however, sweeps far beyond any
8 proper request for judicial notice by asking the Court to take notice of 45 exhibits consisting of
9 workshop materials, meeting minutes, board presentations, historical agreement amendments,
10 prior motion papers, declarations, requests for judicial notice, proposed orders, evidentiary
11 objections, and other filings from earlier proceedings in this case. (Ontario RJN at 2-6.)

12 Although Ontario styles its filing as a request for judicial notice, it is largely an attempt to
13 prove the merits of its opposition through materials, the effect of which are in dispute, and prior
14 advocacy papers, rather than through matters that are properly the subject of judicial notice.
15 Judicial notice is a substitute for formal proof, “a judicial shortcut, a doing away with the formal
16 necessity for evidence.” (*Gravert v. DeLuse* (1970) 6 Cal.App.3d 576, 580 [cleaned up].) It is not
17 a vehicle for placing before the Court disputed evidence, hearsay, legal argument, or advocacy
18 from prior filings and then asking the Court to accept those materials for their accuracy.

19 That limitation matters here because Ontario’s opposition uses the RJN exhibits to support
20 disputed propositions on the merits concerning the meaning of the Court of Appeal’s opinion, the
21 adequacy of Watermaster’s corrective actions, the significance of stakeholder comments, the
22 content and legal effect of prior motion practice, and Ontario’s own characterization of the
23 mediation and corrective process. (See Ontario Opp. at 7-17.) The Court should therefore deny
24 the RJN in substantial part. At a minimum, the Court should strictly limit any notice to the
25 existence, filing, and procedural occurrence of a narrow subset of actual court records, without
26 taking notice of the truth of any disputed factual assertions, legal arguments, or evaluative
27 commentary within those materials.
28

1 **II. THE ITEMS FOR WHICH ONTARIO SEEKS JUDICIAL NOTICE**

2 Ontario asks the Court to take judicial notice of 45 exhibits. (Ontario RJN at 2-6.) It seeks
3 notice of Exhibits 1 through 8 under Evidence Code section 452(h) and describes those materials
4 as workshop documents, meeting minutes, a Board presentation, three historical agreement
5 amendments, and a Watermaster staff report. (*Id.* at 2-4.)

6 Exhibit 1 is not a single document tied to a single indisputable fact, but a set of
7 “Watermaster documents” associated with the March 10, 2026 workshop; the attached materials
8 include a Watermaster staff report setting out the “Issue,” “Recommendation,” and “Financial
9 Impact” of the corrected and amended packages. (Ontario RJN, Ex. 1.) Exhibits 2 and 3 are
10 meeting minutes, Exhibit 4 is a Board presentation, and Exhibit 8 is another staff report. (Ontario
11 RJN at 2-4.)

12 Ontario then identifies Exhibits 9 through 45¹ as court records. Those exhibits include the
13 2012 Restated Judgment, status conference requests and statements, declarations, proposed
14 orders, a minute order, Ontario’s January 2026 motion papers, a request for judicial notice from
15 that earlier motion, opposition briefs, reply briefs, evidentiary objections, an offer to present oral
16 testimony, and related responses filed between August 2025 and February 2026. (Ontario RJN at
17 3-6.)

18 **III. ARGUMENT**

19 **A. Ontario has not Met its Burden Under Evidence Code Sections 452 and 453**

20 A party seeking judicial notice must identify a proper statutory basis and furnish the Court
21 with sufficient information to enable it to take judicial notice of the matter. (Evid. Code, §§ 452,
22 453, subd. (b).) A request may be denied where the requesting party does not make the required
23 showing. (*Willis v. State of California* (1994) 22 Cal.App.4th 287, 291.)

24 Here, Ontario does not make an exhibit-by-exhibit showing of the precise fact the Court is
25 being asked to notice, why that fact matters to the pending motion, and why the fact is not
26 reasonably subject to dispute. Instead, Ontario simply groups Exhibits 1 through 8 under section

27 _____
28 ¹ After listing Exhibits 1 through 45, Ontario asks the Court to take judicial notice of “Exhibits 1
to 44.” (Ontario RJN at 6.) Watermaster assumes this is an error and that Ontario seeks judicial
notice of all 45 Exhibits.

1 452(h), labels Exhibits 9 through 45 as court records, and leaves the Court to sort out which parts
2 of which documents Ontario hopes to use, and for what purpose. (Ontario RJN at 2-6.) That is not
3 the focused showing required for judicial notice.

4 The procedural posture of the present motion confirms why such precision matters.
5 Watermaster seeks approval of corrected and amended packages prepared pursuant to the Court
6 of Appeal’s opinion and this Court’s February 25, 2026 Order on Remittitur, after the stakeholder
7 process the Court directed. (Watermaster Motion at 1-3, 6-14.) Ontario’s opposition contends
8 those packages still conflict with the original DYY Program agreements and prior orders.
9 (Ontario Opp. at 4-18.) The present motion therefore turns on the merits of competing
10 interpretations and disputed factual and technical contentions, not on a set of background facts
11 that are genuinely beyond dispute.

12 **B. Exhibits 1 Through 8 are not Proper Subjects of Judicial Notice Under**
13 **Evidence Code Section 452(h)**

14 Evidence Code section 452(h) applies to “[f]acts and propositions that are not reasonably
15 subject to dispute and are capable of immediate and accurate determination by resort to sources of
16 reasonably indisputable accuracy.” A matter ordinarily is subject to judicial notice only if it is
17 reasonably beyond dispute. (*Fremont Indemnity Co. v. Fremont General Corp.* (2007) 148
18 Cal.App.4th 97, 113.)

19 Exhibits 1 through 8 do not satisfy that standard. Ontario’s own descriptions show that
20 they are workshop materials, meeting minutes, a Board presentation, historical agreement
21 amendments, and staff reports. (Ontario RJN at 2-4.) Those are not self-proving adjudicative
22 facts.

23 Ontario’s Opposition confirms that it is not offering these exhibits merely to establish
24 neutral background facts such as the date of a meeting or the existence of a workshop packet.
25 Ontario cites Exhibit 1 to argue that Watermaster improperly limited its revisions to “economic
26 harm” and still allowed the same volume of DYY water to be recovered from the program.
27 (Ontario Opp. at 8-9.) Ontario cites Exhibits 2 and 3 to argue that there were significant
28 objections to the corrected packages and that the Non-Agricultural Pool voted them down. (*Id.* at

1 9.) Ontario cites Exhibit 5 to argue that CVWD was limited to 11,353 AF and that Watermaster
2 unlawfully credited CVWD above that amount. (*Id.* at 14.)

3 Those are disputed merits propositions. They go directly to the parties' disagreement over
4 what the Court of Appeal required, whether Watermaster complied with the remittitur, whether
5 specific quantities were permissible, and whether stakeholder comments undermine the motion
6 now before the Court. Judicial notice cannot be used to short-circuit those disputes.

7 The same problem applies to Exhibits 5 through 7. Even if the Court could recognize that
8 those agreement amendments exist and contain certain text, Ontario is not using Exhibit 5 merely
9 to establish the existence of a contract document. Ontario is using it to prove a disputed
10 substantive proposition about the permissible amount of CVWD production and to drive its
11 argument that Watermaster's packages remain unlawful. (Ontario Opp. at 14.) At minimum, any
12 notice of those exhibits must be strictly limited to their existence and operative text, not Ontario's
13 interpretation of them or the conclusion that they resolve the pending motion.

14 Ontario also cites no authority showing that information in Watermaster workshop
15 packets, meeting minutes, Board presentations, or staff reports become indisputable merely
16 because they were generated during Watermaster's process. On the contrary, the way Ontario
17 uses those materials in its opposition demonstrates that they are being offered precisely because
18 their substance is contested and allegedly persuasive. (See Ontario Opp. at 8-9, 14, 17.) This is
19 beyond the permissible scope of judicial notice.

20 **C. Exhibits 9 Through 45, Even If They Are Court Records, Are Not Properly**
21 **Noticeable for the Truth of the Matters Asserted**

22 Watermaster does not dispute that the Court may judicially notice the existence of records
23 in its own file under Evidence Code section 452(d). Ontario cites that principle, and Watermaster
24 does not quarrel with it. (Ontario RJN at 2.) But the limitation is equally clear: the Court may
25 notice the existence of a filed document, not the truth of the hearsay statements, factual
26 assertions, legal arguments, or evaluative conclusions within it. (*Sosinsky v. Grant* (1992) 6
27 Cal.App.4th 1548, 1564-1569; *Arce v. Kaiser Found. Health Plan, Inc.* (2009) 181 Cal.App.4th
28 471, 483-484; *Bach v. McNelis* (1989) 207 Cal.App.3d 852, 864-865.)

1 Ontario’s use of the cited court-record exhibits falls squarely on the impermissible side of
2 that line. Ontario cites Exhibits 19 through 23 to argue that its earlier motion package “showed”
3 the accounting exercise “necessary” to correct the assessment packages and that its proposed
4 approach complied with the original DYY Program agreements and orders. (Ontario Opp. at 7.)
5 Those exhibits are Ontario’s prior notice of motion, supporting declarations, prior request for
6 judicial notice, and a proposed order. (Ontario RJN at 4.) By its RJN, it appears Ontario is thus
7 asking the Court to accept the truth and persuasive force of its own prior advocacy papers and
8 declarations. That is not a proper use of judicial notice. Declarations, proposed orders, and prior
9 briefing are advocacy materials and are not judicially noticeable for the truth of their factual
10 assertions or legal conclusions. (*Big Valley Band of Pomo Indians v. Superior Court* (2005) 133
11 Cal.App.4th 1185, 1191-1192.)

12 Ontario likewise cites Exhibit 24 in support of its rebuttal of the contention that it
13 unilaterally terminated mediation. (Ontario Opp. at 7 n.5.) The Court may notice that a “Notice of
14 Completion of Mediation” was filed. It may not, through judicial notice, accept as indisputably
15 true Ontario’s characterization of the mediation process, what that notice proves about party
16 conduct, or whether Ontario acted prematurely.

17 Ontario also cites Exhibits 11 through 13, 16 through 17, 19 through 23, and 34 through
18 38 as a grouped package to argue that Ontario already developed a workable corrective template
19 and that “correcting the accounting is not an impossible task.” (Ontario Opp. at 17.) Those
20 exhibits are status conference statements, declarations, proposed orders, motion papers, reply
21 briefs, and supporting declarations. They are advocacy materials, and many of them advance
22 contested interpretations of the remittitur and proposed methods of relief. The existence of a filed
23 declaration may be noticed, but *Big Valley Band* and *Bach* make clear that the truth of statements
24 in declarations is not judicially noticeable. (*Big Valley Band, supra*, 133 Cal.App.4th at 1191-
25 1192; *Bach, supra*, 207 Cal.App.3d at 864-865.)

26 Ontario’s inclusion of proposed orders is even more problematic. Exhibits 14, 17, and 23
27 are expressly labeled “[Proposed]” orders. (Ontario RJN at 3-4.) Those documents are not
28 operative rulings of the Court. They are advocacy drafts submitted by parties. At most, the Court

1 may recognize that such drafts were submitted. It may not treat their contents as adjudicated fact
2 or accepted legal conclusions.

3 **D. Many of the Court-Record Exhibits are Also Not Relevant Because Ontario**
4 **does not even Use Them in the Opposition the RJN Purports to Support**

5 Ontario’s RJN is not merely overbroad in theory. Ontario appears not to cite Exhibits 4, 6
6 through 10, 14 through 15, 18, 25 through 33, and 39 through 45 anywhere in the opposition the
7 RJN supposedly supports. (Compare Ontario RJN at 2-6, with Ontario Opp. at 7-17.)

8 This matters because only relevant evidence is a proper subject of judicial notice. (See
9 *Turner v. Seterus, Inc.* (2018) 27 Cal.App.5th 516, 532 fn. 3 [“We deny the request for judicial
10 notice because the documents are irrelevant . . .”]; *Jordache Enterprises, Inc. v. Brobeck, Phleger*
11 *& Harrison* (1998) 18 Cal.4th 739, 748 fn. 6 [“declining to take judicial notice of materials not
12 “necessary, helpful, or relevant”].) When a party seeks judicial notice of broad swaths of prior
13 motion practice and related filings that are not even cited in the current pleading, the request is
14 not tailored to any necessary adjudicative fact. Instead, it asks the Court to take notice of a mass
15 of historical filings and advocacy documents absent a stated connection to the issues that actually
16 must be resolved on the pending motion.

17 That is especially true of Exhibits 25 through 33 and 39 through 45. Those exhibits consist
18 of prior opposition papers, declarations, evidentiary objections, requests for judicial notice,
19 replies, declarations, and responses from the February 2026 motion practice. (Ontario RJN at 4-
20 6.) They are advocacy materials by any measure, and Ontario does not appear to rely on them in
21 the current opposition. The Court should deny notice as to those exhibits for that independent
22 reason as well.

23 **E. Alternatively, Any Judicial Notice Should Be Strictly Limited**

24 If the Court is inclined to grant notice in any respect, it should do so only in the narrowest
25 possible manner consistent with Evidence Code sections 452 and 453 and the cases limiting
26 judicial notice of court records. The Court may, for example, recognize that certain documents
27 were filed, that an order was entered, and that they exist in the file. But the Court should
28 expressly decline to take notice of the truth of any factual assertions, hearsay statements, legal

1 arguments, evaluative commentary, or proposed findings contained in those materials.

2 The same limiting principle should apply to any non-court exhibits the Court is inclined to
3 consider. If the Court considers them at all, any notice should be confined to the fact that those
4 documents exist and contain certain text. The Court should not treat Ontario's interpretation of
5 those documents, or Ontario's claim that those exhibits resolve disputed merits questions in this
6 motion, as judicially noticeable fact.

7 **IV. CONCLUSION**

8 For the foregoing reasons, Watermaster respectfully requests that the Court deny
9 Ontario's Request for Judicial Notice. In the alternative, Watermaster requests that the Court limit
10 any judicial notice to the mere existence and filing of a narrow subset of actual court records, and
11 expressly decline to take notice of the truth of disputed factual assertions, hearsay statements,
12 legal arguments, evaluative commentary, or proposed findings contained in any exhibit submitted
13 with Ontario's RJN.

14 Dated: June 5, 2026

BROWNSTEIN HYATT FARBER
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By: 

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

On June 5, 2026, I served the following:

1. CHINO BASIN WATERMASTER'S OPPOSITION TO CITY OF ONTARIO'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF OPPOSITION TO WATERMASTER'S MOTION FOR COURT APPROVAL OF CORRECTED AND AMENDED FISCAL YEARS 2021/22 AND 2022/23 ASSESSMENT PACKAGES

/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

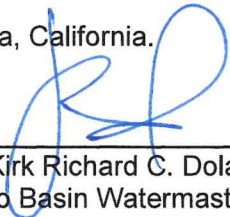
/___/ BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee.

/___/ 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.

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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 June 5, 2026, in Rancho Cucamonga, California.



By: Kirk Richard C. Dolar
Chino Basin Watermaster

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