

1 CRAIG A. PARTON, State Bar No. 132759
TIMOTHY E. METZINGER, State Bar No. 145266
2 CAMERON GOODMAN, State Bar No. 307679
PRICE, POSTEL & PARMA LLP
3 200 East Carrillo Street, Fourth Floor
4 Santa Barbara, California 93101
Telephone: (805) 962-0011
5 Facsimile: (805) 965-3978

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6 Attorneys for
7 Antelope Valley Watermaster

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT**

11 Coordination Proceeding,
Special Title (Rule 1550(b))

Judicial Council Coordination
Proceeding No. 4408

13 **ANTELOPE VALLEY**
GROUNDWATER CASES

LASC Case No.: BC 325201

Santa Clara Court Case No. 1-05-CV-049053
Assigned to the Hon. Jack Komar, Judge of
the Santa Clara Superior Court

**WATERMASTER’S TRIAL BRIEF RE
ZAMRZLAS’ MOTIONS TO SET ASIDE
OR MODIFY JUDGMENT**

18 AND ALL RELATED ACTIONS

Date: March 15 – 16, 2023
Time: 9:00 a.m.
Dept: 17

21 The motions by Johnny and Pamela Zamrzla (“**J&P**”) and Johnny Lee and Jeannette
22 Zamrzla (“**J&J**”, and collectively with J&P, the “**Zamrzlas**”) to set aside or modify the Judgment
23 (collectively, the “**Motions**”) are fatally flawed. The Zamrzlas are Parties to the Judgment and
24 subject to the jurisdiction of this Court as Small Pumper Class Members. The legal issues in the
25 Motions have already been decided by this Court based on almost identical facts, and this
26 important precedent should not be disturbed.

27 By seeking to relitigate their alleged water rights, the Zamrzlas attempt an impermissible
28 collateral attack to overturn the finality and certainty of the Judgment, threatening to irreversibly

1 jeopardize the outcome of nearly two decades of litigation. This would adversely affect the
2 groundwater rights of virtually every landowner within the Basin, and would essentially require
3 the litigation to start anew.

4 For years, dating back prior to entry of the final Judgment, the Zamrzlas have consciously
5 and strategically sought to avoid their obligations as users of groundwater in the Basin, and have
6 sidestepped the Watermaster's efforts to bring them into compliance. This disingenuous behavior
7 should not be rewarded.

8 **I. This Court Has Already Decided the Legal Issues Before it in the Long Valley Motion**

9 On October 9, 2018, Long Valley Road, L.P. ("**Long Valley**"), a Small Pumper Class
10 Member, filed a motion for leave to intervene in this adjudication. Long Valley claimed that it
11 was not a Party to the Judgment because it was not served with notice, and that it was erroneously
12 included in the list of Small Pumper Class Members because it allegedly historically pumped
13 more than 25 acre-feet per year (AFY). Long Valley sought to "rectify" this purported error by
14 "intervening" to become an Exhibit 4 Party, and thereafter quantifying and memorializing its
15 alleged water rights by amending the Judgment. Long Valley argued that it was never notified of
16 the Small Pumper Class action, and that even if it had been notified, it would have reasonably
17 believed it was excluded from the Small Pumper Class based on unsubstantiated evidence of
18 historical groundwater use. Long Valley cited to constitutional water rights protections as an
19 overlying landowner, as well as due process concerns. (Exh. 17-20, 27.)

20 The Watermaster and various Parties filed oppositions to Long Valley's motion, arguing
21 that: (1) the motion constituted an impermissible collateral attack on the Judgment, (2) the form
22 and service of class notice was adequate as to Long Valley and all other Small Pumper Class
23 Members, and (3) allowing Long Valley to intervene and relitigate its water rights years after
24 final entry of the Judgment would be inequitable and set a dangerous precedent. (Exh. 21-26.)

25 After a hearing on November 1, 2018, the Court denied Long Valley's motion in its
26 entirety, confirming its status as a Small Pumper Class Member subject to the terms of the
27 Judgment and the Court's jurisdiction, and ordering it to comply with the Judgment and the
28 Watermaster Rules & Regulations. (Exh. 28.)

1 The Zamrzlas are in the same situation as Long Valley. J&P are identified by name in
2 Exhibit C to the Judgment, and they concede that the Small Pumper Class list sets forth their
3 correct mailing address. J&J are likewise similarly situated to Long Valley, although rather than
4 having been served by mail, they were properly noticed by publication.

5 The Zamrzlas also raise the exact same legal arguments in their Motions as Long Valley,
6 based on similarly specious facts and conclusory allegations: (1) they allege that they never
7 actually received notice, and in any event were not properly served with notice of the Small
8 Pumper Class action or the underlying adjudication; (2) they allege that even if they had been
9 notified of the Small Pumper Class action, such notice would not have applied to them nor would
10 they be bound by its terms because their alleged (yet entirely unsubstantiated) historical
11 groundwater production amounts exceeded 25 AFY; and (3) they repeatedly cite to constitutional
12 water rights protections and due process concerns in an effort to avoid the jurisdiction of the
13 Court and shirk their obligation to comply with the Judgment as Small Pumper Class Members.

14 Each legal argument raised by the Zamrzlas was rejected by this Court in the Long Valley
15 motion. The Court should not disturb this well-founded precedent with respect to Parties in the
16 same situation as Long Valley.

17 **II. The Zamrzlas Attempt an Impermissible Collateral Attack on the Judgment**

18 Just like Long Valley, the Zamrzlas attempt a collateral attack to overturn the finality and
19 certainty of the Judgment more than seven years after the fact. This implicates the rights of
20 virtually every groundwater user within the adjudicated Basin.

21 Attacks on a judgment in the trial court are classified as either “direct” or “collateral.” A
22 motion to directly attack the judgment (*i.e.*, a motion for new trial or to vacate the judgment) must
23 be made within 15 days after notice of entry of judgment or, if no notice is served, within 180
24 days after judgment. (*See* Code Civ. Proc. § 663a.) All other attacks in the trial court after the
25 statutory time period has run are collateral attacks. (8 Witkin, Cal. Proc. (6th ed. 2021) Attack on
26 Judgment, §§ 1-2, 6 and 8.)

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1 Here, the Judgment was entered on December 23, 2015, and Notice of Entry of Judgment
2 was served by posting on December 28, 2015. Thus, the time within which the Zamrzlas could
3 make a direct attack on the Judgment has long since passed.

4 The Zamrzlas further attempt to collaterally attack the Judgment based upon inadmissible
5 extrinsic evidence in order to establish that they did not receive adequate notice and/or do not
6 satisfy the definition of a Small Pumper Class Member. This attack fails because a judgment of a
7 court of general jurisdiction is presumed to be valid, *i.e.*, the court is presumed to have
8 jurisdiction of the subject matter and the person, and to have acted within its jurisdiction. (8
9 Witkin, Cal. Proc. (6th ed. 2021) Attack on Judgment, § 5.) Since the Zamrzlas' attack is
10 collateral, the presumption of jurisdiction is conclusive and extrinsic evidence is not admissible to
11 rebut the presumption that this Court has jurisdiction over them as Small Pumper Class Members.

12 Because the jurisdictional facts as to the Small Pumper Class—including the Court's
13 findings as to the adequacy of class notice—are set forth in Exhibit C to the Judgment, nothing in
14 the Judgment Roll (C.C.P. § 670) evidences a lack of jurisdiction. Given the absence of a timely
15 authorized "direct attack," the findings of jurisdiction are now conclusive, and the proffered
16 extrinsic evidence attached to the Zamrzlas' Motions is inadmissible and cannot be considered.
17 The Watermaster filed evidentiary objections concurrently with its oppositions to the Motions.

18 **III. The Zamrzlas Were Notified of the Small Pumper Class Settlement**

19 J&P were properly noticed of their designation as a Small Pumper Class Member by mail
20 and/or publication, and notified of the opportunity to opt-out and join the adjudication as an
21 overlying Producer. Although J&J are not listed on Exhibit C to the Judgment, they were noticed
22 by publication and qualify as unknown Small Pumper Class Members, defined as "those Persons
23 or entities that are not identified on the list of known Small Pumper Class Members maintained
24 by class counsel and supervised and controlled by the Court as of the Class Closure Date."
25 (Judgment at ¶ 5.1.3.6.) "[W]henver the identity of any unknown Small Pumper Class Member
26 becomes known, that Small Pumper Class Member shall be bound by all provisions of this
27 Judgment, including without limitation, the assessment obligations applicable to Small Pumper
28 Class Members." (*Id.* at ¶ 5.1.3.7.)

1 The Zamrzlas were therefore properly notified of the Small Pumper Class settlement, and
2 notified of the opportunity to opt-out and join the adjudication as overlying Producers. Had the
3 Zamrzlas taken such action, they could have attempted to prove-up any alleged overlying
4 Production Rights along with those who timely joined as Exhibit 4 Parties. The Zamrzlas failed to
5 do so, and are now bound by the terms of the Judgment as Small Pumper Class Members. Any
6 overlying Production Rights the Zamrzlas may now claim cannot alter, amend, or modify the
7 rights to the Native Safe Yield allocated by the Court to the Parties under the Judgment.

8 This Court has finally and conclusively ruled that both the form and the manner of service
9 of the notices of the Small Pumper Class Member action were proper and adequate under the
10 circumstances. The Zamrzlas cannot collaterally attack the finality of this Court's order, now
11 seven years later. Specifically, the Court found that: (1) it has "jurisdiction over all parties to the
12 Settlement Agreement including those who did not timely opt out of the Settlement"; (2) "[n]otice
13 of the pendency of this class action was initially provided to the Class by mail and publication,
14 with a final opt out date of December 4, 2009"; (3) notice "was given in an adequate and
15 sufficient manner, and constituted the best practicable notice under the circumstances"; (4) "[n]o
16 Class member timely filed an objection to the 2015 Settlement"; and (5) "[a]ll members of the
17 Class who did not opt out of the Class shall be subject to all the provisions of the 2013 Partial
18 Settlement, the 2015 Settlement, and this Judgment as entered by the Court." The Court then
19 ordered, adjudged and decreed that "[t]he Small Pumper Class members are bound by the
20 Judgment and Physical Solution, and their rights and obligations are relative to future
21 groundwater use are set forth therein." (Judgment, Exh. C at pp. 2-5.)

22 The time has long passed for the Zamrzlas to challenge the final determinations and orders
23 of the Court as to the form and service of notice.

24 **IV. Granting the Motion Would Be Inequitable and Reward Disingenuous Behavior**

25 The Zamrzlas take the position that extrinsic evidence is allowed to collaterally attack a
26 Judgment if the court is sitting in equity. However, those seeking equity must come to the Court
27 with clean hands. (See *Kulchar v. Kulchar* (1969) 1 Cal. 3d 467, 473 ("[i]f the complainant was
28 guilty of negligence in permitting the fraud to be practiced or the mistake to occur, equity will

1 deny relief”); see also *Olivera v. Grace* (1942) 19 Cal. 2d 570, 575 (a court of equity will not
2 interfere with a final judgment unless “there had been no negligence, laches, or other fault on [the
3 defendant’s] part, or on the part of his agents”).) The Zamrzlas do not come to the Court with
4 clean hands, as it is undisputed that the Zamrzlas knew about the underlying adjudication prior to
5 the Court’s entry of the final Judgment.

6 According to the testimony of Johnny Zamrzla, Delmar Van Dam, an Exhibit 4 Party who
7 participated in the adjudication, told Mr. Zamrzla on repeated occasions leading up to entry of the
8 final Judgment that the adjudication was for big farmers, that it would be very costly for the
9 Zamrzlas to participate, and that the Zamrzlas would eventually obtain a water right, so to just
10 keep pumping groundwater without participating. (Exh. 55 at pp. 70 – 74.) Specifically, Johnny
11 Zamrzla recalled as follows: “I understood from [Delmar] it was the big boys that were involved, the
12 big farmers, and I remember, early on, he said, ‘This is not your gig. You got – you’re not a big
13 farmer.’ And I agreed. And he said, ‘It’s gonna cost a lotta money,’ and he reiterated that several
14 times over the years, that, ‘Not only did I tell you it was gonna cost a lot of money, it is costing a lot
15 of money.’ And, at some point, ‘Don’t quit doing the farming you’re doing. You’ll always be
16 allocated some water.’ I said, ‘Okay.’” (*Id.* at 70:15-71:4.)

17 Johnny Zamrzla also testified that Eugene Nebeker, an Exhibit 4 Party under the Judgment,
18 invited the Zamrzlas to join his Antelope Valley Groundwater Agreement Association (“AGWA”) as
19 a Party to the adjudication, but that the Zamrzlas declined. Specifically, Johnny Zamrzla recalled that,
20 “my wife and I both talked to [Eugene], and I believe that was just before the adjudication, in 2014,
21 and he said you know, if we still were interested, he could look into it, but I said, ‘You know, we
22 don’t think it affects us. We don’t think we’re big farmers. We think we’re gonna get some allocation,
23 and we’re gonna leave it at that.’ But I do know it was some time, I believe, in 2014.” (*Id.* at 81:8-15.)

24 Johnny Zamrzla further testified that he sought the assistance from former Los Angeles
25 County Supervisor Michael Antonovich regarding the adjudication, but when the Supervisor’s aide
26 said he couldn’t help the Zamrzlas, they decided to do nothing further, knowing full well the potential
27 consequences of doing so. (*Id.* at 203:9-206:10.)

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1 J&P acquired their property in 1970, and J&J in 2007, both well before the first notice of
2 Small Pumper Class Action was mailed out. (J&P Motion at 2:2-3; J&J Motion at 1:6-7.) At all
3 times relevant the Zamrzlas were high-profile members of the Antelope Valley, deeply engrained
4 in the local agricultural and business community. (J&P Motion at 2:2-10.)

5 The Zamrlzas cannot avail themselves of the Court's equitable powers after consciously
6 deciding to avoid participating in the adjudication, now claim ignorance, and be allowed to pump
7 groundwater from the Basin with impunity.

8 It is also indisputable that the Zamrzlas have been aware of the Watermaster's assertion
9 that they are bound by the Judgment and subject to the jurisdiction of the Court as Small Pumper
10 Class Members since at least as early as July 2018, when the Zamrzlas admit they received the
11 Watermaster's letter indicating as much and responded through their attorney. Thereafter the
12 Zamrzlas regularly communicated with the Watermaster both directly at monthly Board meetings,
13 and through their then counsel of record since at least July of 2018, Robert H. Brumfield, who
14 had been involved in the adjudication representing other Small Pumper Class water users (such as
15 Charles Tapia) in the Basin since before entry of final Judgment.

16 Moreover, the Long Valley motion challenging its status as a Small Pumper Class
17 Member was filed six months after the Zamrzlas began communicating with the Watermaster
18 about past-due Assessments through their attorney. Yet, rather than joining the analogous Long
19 Valley motion, the Zamrzlas waited four years to challenge their status under the Judgment,
20 raising the exact same legal arguments and based on identical facts.

21 For years the Zamrzlas have forced the Watermaster to incur substantial attorneys' fees to
22 compel compliance with the Judgment and recover past-due Assessments. All the while the
23 Zamrzlas never once disputed their status as Parties under the Judgment and subject to the Court's
24 jurisdiction. It was only after the Watermaster filed its original motion to collect delinquent
25 Assessments that the Zamrzlas first questioned their status as Small Pumper Class Members in
26 their opposition. Moreover, the Zamrzlas did not seek to modify the Judgment as to their status as
27 Small Pumper Class Members until after the Court directed them to do so at the April 2022
28 hearing on this matter.

1 As the California Supreme Court held in *Weitz v. Yankosky* (1966) 63 Cal. 2d 849, 856, a
2 defendant must act diligently in making a motion to set aside a judgment. Waiting at least four
3 years, and forcing the Watermaster to incur substantial attorneys' fees in reliance the Zamrzlas'
4 failure to raise objections to the finality of the Judgment, is antithetical to this requirement.

5 The Zamrzlas are seeking a third bite at the apple: (1) first they ignored their opportunity to
6 opt-out of the Small Pumper Class after notice of the Small Pumper Class action, notice of partial
7 settlement, and notice of the final Judgment had been properly served; (2) then they negotiated,
8 directly and through their counsel, with the Watermaster for almost four years in an attempt to
9 avoid their responsibility to pay Assessments as Parties under the Judgment, never once challenging
10 their status as Small Pumper Class Members; and (3) now that the Watermaster has sought Court
11 intervention in an effort to compel compliance with the Judgment, the Zamrzlas are attempting a
12 collateral attack to set aside the Judgment under a legal theory that would undo the framework that
13 binds the Judgment and Physical Solution together.

14 **V. Allowing the Zamrzlas to Avoid the Judgment Would Set a Dangerous Precedent**


15 As set forth above, all Small Pumper Class Members were properly served with notice of
16 the Small Pumper Class Action. Likewise, numerous Parties failed to respond timely, or at all, to
17 the Public Water Suppliers' cross-complaint, as amended, and their defaults were entered by the
18 Court. (Judgment at Exh. A, ¶ 1.6.) Allowing Parties like the Zamrzlas to produce groundwater
19 with impunity based solely on unsubstantiated and improbable allegations that they never
20 received notice of the adjudication would set a dangerous precedent. It would strongly incentivize
21 other Small Pumper Class Members (and even defaulted and non-Parties) simply to allege a lack
22 of notice without any supporting evidence, and thereby claim immunity from paying Assessments
23 and complying with other requirements imposed by the Judgment.

24 All Parties to the Judgment participated in good faith in each phase of trial to prove-up
25 their Groundwater rights and calculate the Safe Yield. Allowing the Zamrzlas to alter the
26 Judgment would adversely affect the other Parties bound by the Judgment and would send the
27 wrong message to other Small Pumper Class Members, defaulted Parties and non-Parties who
28 have also failed to pay Assessments and comply with other requirements of the Judgment.

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Dated: March 10, 2023

Respectfully submitted,
PRICE, POSTEL & PARMA LLP

By: 
CRAIG A. PARTON
TIMOTHY E. METZINGER
CAMERON GOODMAN
Attorneys for
Antelope Valley Watermaster

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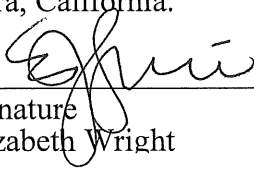
STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am employed in the County of Santa Barbara, State of California. I am over the age of eighteen (18) and not a party to the within action. My business address is 200 East Carrillo Street, Fourth Floor, Santa Barbara, California 93101.

On March 10, 2023, I served the foregoing document described **WATERMASTER'S TRIAL BRIEF RE ZAMRZLAS' MOTIONS TO SET ASIDE OR MODIFY JUDGMENT** on all interested parties in this action by placing the original and/or true copy.

- BY ELECTRONIC SERVICE:** I posted the document(s) listed above to the Santa Clara County Superior Court Website @ www.scefiling.org and Glotrans website in the action of the Antelope Valley Groundwater Cases.
- (*STATE*) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- (*FEDERAL*) I hereby certify that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed on March 10, 2023, at Santa Barbara, California.



Signature
Elizabeth Wright