

**From:** Heather Ijames [mailto:heather@brumfield-haganlaw.com]  
**Sent:** Friday, August 22, 2014 6:58 AM  
**To:** Jeffrey Dunn  
**Subject:** FW: Antelope Valley Groundwater Cases

Good morning, Mr. Dunn,

This is my final attempt to get a response from you regarding a motion to set aside the default of one of your Roe Cross-Defendants (Charles Tapia and the Nellie Tapia Family Trust) that you have improperly served by publication and thereafter improperly took the default.

Upon my review of both the case law and other similar motions to set aside in these Groundwater Cases, I feel my client has a predominantly good case to have the default set aside.

I believe you know this, too, as the court has admonished your service attempts in the past. In sum, your firm has dropped the ball on reasonable service attempts and it needs to be rectified.

In this, I had hoped you would have spared my client the time and money in fighting something that you could easily stipulate to rectify.

However, I have heard nothing back from you. (My prior email is below.) I have also read in other pleadings filed in this matter that your office has been more than unresponsive to these requests, forcing parties to bring a motion. Which means your client has not only caused needless defaults to be entered, but your firm is causing needless motions to set aside to be filed, as well as needless expenses to be incurred.

In such, we will likely be including a sanctions request in our Motion.

I plan on filing Monday (Aug. 25). I still remain hopeful up until that time that you will contact me and agree to stipulate.

Thank you,

Heather Ijames

Brumfield & Hagan, LLP  
2031 F Street  
Bakersfield, CA 93301  
Tele (661) 215-4980 | Fax (661) 215-4989  
[www.Brumfield-HaganLaw.com](http://www.Brumfield-HaganLaw.com)

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**From:** Heather Ijames  
**Sent:** Thursday, August 14, 2014 4:31 PM  
**To:** [Jeffrey.Dunn@bbklaw.com](mailto:Jeffrey.Dunn@bbklaw.com)  
**Subject:** Antelope Valley Groundwater Cases

Hello, Mr. Dunn,

My firm represents Mr. Charles Tapia, a defaulted cross-defendant in the Antelope Valley groundwater case.

You had previously spoken with attorney Thomas Ward regarding a request to stipulate to set aside Mr. Tapia's default. Mr. Ward communicated to our client that you would not stipulate.

Mr. Tapia has then come to us to bring a motion to set aside the default. In our preparations, we have come across your office's attempts to serve Mr. Tapia, as well as other motions to set aside defaults that have been granted.

To cut to the point, your attempts to serve Mr. Tapia show a near complete lack of effort to do something as minimal as come to Mr. Tapia's front door at a time when he was home from work and before he fell asleep for the night. It also shows no attempts at the farm that is directly impacted by the litigation, a place where Mr. Tapia can easily be found.

A copy of the declaration of non-service filed by your office in regards to Mr. Tapia is attached to this email. As you can see, there was only three attempts. (A quick survey of your other declarations of non-service for your requests for defaults averaged at least five to seven attempts on hundreds of other defendants. It is unclear why Mr. Tapia's easily accessible property only garnered three attempts.)

The first time was at 9:30 at night, when my client, a 70 year old man, was already asleep.

The second and third times were in the morning, where my client, a farmer, was at work (a Tuesday and Wednesday morning.)

Based on the admonitions already given by the judge in regards to other service attempts, as well as the results in prior motions to set aside, we believe a motion to compel would be victorious. Keep in mind that the criteria under CCP Section 473.5 is that the *outer* time limit for such a motion is the earlier of either two years after judgment (which has not been entered), or 180 days after service of notice of default. Which, as of this date, Mr. Tapia has never received.

In other words, we will be arguing that since the case is still pending, and there has not been a judgment nor actual service of the default, then Mr. Tapia's time has not run.

In this vein, I wanted to ask of you one more time whether or not you would simply stipulate to setting aside Mr. Tapia's default.

Please let me know as soon as you can. We otherwise want to get the motion on file within the next week or so.

Thank you for your time and consideration,

Heather Ijames  
Brumfield & Hagan, LLP  
2031 F Street  
Bakersfield, CA 93301  
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[www.Brumfield-HaganLaw.com](http://www.Brumfield-HaganLaw.com)

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