

1 In the present action, Los Angeles County Waterworks District No. 40 and Rosamond  
2 Community Services District have alleged prescriptive claims against more than 100,000 landowners  
3 whose property overlies the Antelope Valley Groundwater Basin. Notice is a key element of  
4 prescription that must be proven by the Water Purveyors if they are to succeed in their claim. Diamond's  
5 request is directed at this element. The attempt to hide behind the enormity of their own allegation under  
6 a claim of burden is improper and cannot be sustained.

7 The fact alone that the response to an interrogatory may be expensive and burdensome  
8 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*  
9 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*  
10 (1961) 56 Cal.2d 407, 417-418.)

### 10 3. Oppression

11 "[T]o support an objection of oppression there must be some showing either of an intent  
12 to create an unreasonable burden or that the ultimate effect of the burden is  
13 incommensurate with the result sought." (*West Pico Furniture Co. v. Superior Court of*  
14 *Los Angeles County* (1961) 56 Cal.2d 407, 417.)

14 The propounding of Request for Admissions [Set One] was not served with any ill intent.  
15 Contrary to Los Angeles County Waterworks District No. 40's and Rosamond Community Services  
16 District's assertions, the requests are not unreasonable as each of the nine questions posed relate directly  
17 to the allegations raised by Los Angeles County Waterworks District No. 40 and Rosamond Community  
18 Services District through their various complaints, cross-complaints and answers as required by Code  
19 of Civil Procedure section 2033.010.

20 The burden of providing a response through discovery is no greater than the burden that must be  
21 born by these two entities at trial. If they are able to meet this burden, they should be compelled to do  
22 so now when such disclosure will help foster settlement and resolution of this matter without the  
23 necessity and expense of a trial. As stated above, these reasons are the very purpose of pre-trial  
24 discovery. The information sought must be produced before trial and the court is not empowered to deny  
25 Diamond's discovery rights under this unsubstantiated claim of oppression.

26 "While it is true that the trial court has a broad discretion in passing on an objection that  
27 there has been harassment and oppression [Citation], such discretion is not absolute. As

1 was said in *Cembrook*, such discretion does not authorize the trial court "to make blanket  
2 orders barring disclosure in toto when the factual situation indicates that a just and  
3 equitable order could be made that would authorize disclosure with limitations." (*Coy*  
4 *v. Superior Court of Contra Costa County* (1962) 58 Cal.2d 210, 221-222.)

#### 4. Objections Based on Class Certification

5 Los Angeles County Waterworks District No. 40 and Rosamond Community Services District  
6 attempt to limit their obligation to respond to the requests on the grounds that class certification has not  
7 yet been completed. This objection holds no merit as the right to discovery prior to class certification  
8 has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The Superior Court of*  
9 *Orange County* (1994) 26 Cal.App.4th 239, discovery directed at Class Certification is both appropriate  
10 and permitted in order to ensure a fair hearing.

11 "Appellate courts have recognized the importance of such orders by creating an  
12 exception to the rule denying appellate review. 'Whether the order is directly appealable  
13 or we treat this as a petition for writ of mandate, the issue of the class certification order  
14 is and should be before us.' (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9  
15 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)  
16 Due process requires an order with such significant impact on the viability of a case not  
17 be made without a full opportunity to brief the issues and present evidence. This is true  
18 whether the issue is presented in a motion or by way of an order to show case issued by  
19 the court. In addition, each party should have an opportunity to conduct discovery on  
20 class action issues before its documents in support of or in opposition to the motion must  
21 be filed." *Carabini, supra*, pp. 243-244.

22 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek  
23 information about water purveyor class members. A plain reading of the request evidences that it was  
24 directed to the specific public water supplier concerning that specific public entity's actions with regard  
25 to its specific claim of prescription. If, and to the extent, the request can be characterized as seeking  
26 information about some, yet undefined class, a response is still warranted.

27 "Absent some specific showing by the objecting party to justify a contrary ruling, such  
28 as privilege, a representative plaintiff can be compelled to supply his adversary with the  
29 information about his class which is in his possession or readily available to him and  
30 which is not equally available to an adversary. A representative plaintiff cannot be  
31 compelled to supply information concerning members of his class or their interests in the  
32 action which is neither in his possession nor control, unless the interrogatory is directly  
33 related to his own standing to maintain the action, to the existence of an ascertainable  
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36 about any class member's separate claim as distinguished from the common claim of the

1 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine*  
2 *Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

3 Based on the foregoing, Los Angeles County Waterworks District No. 40's and Rosamond  
4 Community Services District's objections have no merit and have been interposed to these requests for  
5 admission for the sole purpose of avoiding the disclosure of information that is fatal to their claim of  
6 prescription. In order to facilitate settlement and a timely resolution of this matter, Los Angeles County  
7 Waterworks District No. 40 and Rosamond Community Services District must be ordered to respond  
8 to Diamond Farming's Request for Admissions [Set One].

9 **REQUEST NO. 6:**

10 Admit that YOU have not physically trespassed upon any landowner's property within the  
11 BASIN.

12 **Defendants' Response**

13 Objection. This request is premature, burdensome and oppressive. This request seeks  
14 information concerning class members and the court has not yet completed its class certification process.  
15 No class representative has yet been approved by the court.

16 **Legal Authority in Support of Further Response:**

17 Defendants have the burden of justifying their objections or their failure to fully answer the  
18 interrogatories. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*  
19 (1962) 58 Cal.2d 210, 220-221.)

20 “At the hearing of such a motion the burden is on the party interrogated, in this case the  
21 defendants, ‘of showing facts from which the trial court might find that the  
22 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden  
is on defendants to show that their objections are valid.” (*Columbia Broadcasting*  
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23 Defendants will be unable to satisfy this burden because the objections asserted to this Request have no  
24 merit and are otherwise too general to preclude disclosure of the requested information.

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1 about their claim of prescription. This is information that they will have to provide in any event, prior  
2 to any resolution of their claim of prescription.

3 **2. Burdensome**

4 The assertion of this objection is insufficient to justify Los Angeles County Waterworks District  
5 No. 40's and Rosamond Community Services District's refusal to respond to Request for Admissions  
6 [Set One] because these two entities cannot show that the burden of providing a response will result in  
7 injustice.

8 "[S]ome burden is inherent in all demands for discovery. The objection of burden is valid  
9 only when that burden is demonstrated to result in injustice. Hence, the trial court is not  
10 empowered to sustain an objection in toto, when the same is predicated upon burden,  
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13 In the present action, Los Angeles County Waterworks District No. 40 and Rosamond  
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the court. In addition, each party should have an opportunity to conduct discovery on  
class action issues before its documents in support of or in opposition to the motion must  
be filed." *Carabini, supra*, pp. 243-244.

1           Additionally, the request in question is not posed to a class of water purveyors, nor does it seek  
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6           “Absent some specific showing by the objecting party to justify a contrary ruling, such  
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18           Based on the foregoing, Los Angeles County Waterworks District No. 40's and Rosamond  
19 Community Services District's objections have no merit and have been interposed to these requests for  
20 admission for the sole purpose of avoiding the disclosure of information that is fatal to their claim of  
21 prescription. In order to facilitate settlement and a timely resolution of this matter, Los Angeles County  
22 Waterworks District No. 40 and Rosamond Community Services District must be ordered to respond  
23 to Diamond Farming's Request for Admissions [Set One].

24 **REQUEST NO. 7:**

25           Admit that when YOU first started using groundwater from within the BASIN, that your then  
26 use was at that time lawful.

27 **Defendants' Response**

28           Objection. This request is premature, burdensome and oppressive. This request seeks  
information concerning class members and the court has not yet completed its class certification process.  
No class representative has yet been approved by the court.

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1 **Legal Authority in Support of Further Response:**

2 Defendants have the burden of justifying their objections or their failure to fully answer the  
3 interrogatories. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*  
4 (1962) 58 Cal.2d 210, 220-221.)

5 “At the hearing of such a motion the burden is on the party interrogated, in this case the  
6 defendants, ‘of showing facts from which the trial court might find that the  
7 interrogatories were interposed for improper purposes.’ [Citation]. In short, the burden  
8 is on defendants to show that their objections are valid.” (*Columbia Broadcasting*  
9 *System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 18.)

8 Defendants will be unable to satisfy this burden because the objections asserted to this Request have no  
9 merit and are otherwise too general to preclude disclosure of the requested information.

10 **1. Premature**

11 Code of Civil Procedure section 2033.020 governs the time in which request for admissions may  
12 be propounded.

13 “(a) A defendant may make requests for admission by a party without  
14 leave of court at any time.

15 “(b) A plaintiff may make requests for admission by a party without leave  
16 of court at any time that is 10 days after the service of the summons on,  
17 or, in unlawful detainer actions, five days after service of the summons  
18 on, or appearance by, that party, whichever occurs first.”

17 Code of Civil Procedure section 2019.020 provides that there is no required sequence of  
18 discovery. In general, fairness demands adherence to the statutory procedures, since they were designed  
19 to place the parties “‘on roughly equal footing.’” (*Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1422.)  
20 Whether as a plaintiff or a defendant, the discovery propounded by Diamond Farming complied with  
21 the time requirements set forth in Code of Civil Procedure. Los Angeles County Waterworks District  
22 No. 40 and Rosamond Community Services District have no legal basis or authority to assert this  
23 objection, which is designed simply to avoid providing a response and to keep the landowners in the dark  
24 as to their vaguely pled claims of prescription.

25 The premature objection also seeks to compromise the purpose of pretrial discovery which is to  
26 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782)



1 to assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating  
2 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;  
3 to prevent delay; and to safeguard against surprise. [Citations.] (*Britts v. Superior Court* (2006) 145 Cal.  
4 App. 4th 1112, 1128.) A party responding to discovery requests may be required to state whether or not  
5 he or she makes a particular contention, and to disclose the evidentiary facts underlying each such  
6 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*  
7 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force Los Angeles  
8 County Waterworks District No. 40 and Rosamond Community Services District to provide information  
9 about their claim of prescription. This is information that they will have to provide in any event, prior  
10 to any resolution of their claim of prescription.

11 **2. Burdensome**

12 The assertion of this objection is insufficient to justify Los Angeles County Waterworks District  
13 No. 40's and Rosamond Community Services District's refusal to respond to Request for Admissions  
14 [Set One] because these two entities cannot show that the burden of providing a response will result in  
15 injustice.

16 "[S]ome burden is inherent in all demands for discovery. The objection of burden is valid  
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20 Community Services District have alleged prescriptive claims against more than 100,000 landowners  
21 whose property overlies the Antelope Valley Groundwater Basin. Notice is a key element of  
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10          Services District through their various complaints, cross-complaints and answers as required by Code  
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13          born by these two entities at trial. If they are able to meet this burden, they should be compelled to do  
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15          necessity and expense of a trial. As stated above, these reasons are the very purpose of pre-trial  
16          discovery. The information sought must be produced before trial and the court is not empowered to deny  
17          Diamond's discovery rights under this unsubstantiated claim of oppression.

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19                 there has been harassment and oppression [Citation], such discretion is not absolute. As  
20                 was said in *Cembrook*, such discretion does not authorize the trial court "to make blanket  
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26          attempt to limit their obligation to respond to the requests on the grounds that class certification has not  
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9 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek  
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28

1 **REQUEST NO. 8:**

2 Admit that when YOU first started using groundwater from within the BASIN, that your then  
3 use was not adverse to the overlying right of any landowner.

4 **Defendants' Response**

5 Objection. This request is premature, burdensome and oppressive. This request seeks  
6 information concerning class members and the court has not yet completed its class certification process.  
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8 **Legal Authority in Support of Further Response:**

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13 to create an unreasonable burden or that the ultimate effect of the burden is  
14 incommensurate with the result sought." (*West Pico Furniture Co. v. Superior Court of*  
15 *Los Angeles County* (1961) 56 Cal.2d 407, 417.)

16 The propounding of Request for Admissions [Set One] was not served with any ill intent.  
17 Contrary to Los Angeles County Waterworks District No. 40's and Rosamond Community Services  
18 District's assertions, the requests are not unreasonable as each of the nine questions posed relate directly  
19 to the allegations raised by Los Angeles County Waterworks District No. 40 and Rosamond Community  
20 Services District through their various complaints, cross-complaints and answers as required by Code  
21 of Civil Procedure section 2033.010.

22 The burden of providing a response through discovery is no greater than the burden that must be  
23 born by these two entities at trial. If they are able to meet this burden, they should be compelled to do  
24 so now when such disclosure will help foster settlement and resolution of this matter without the  
25 necessity and expense of a trial. As stated above, these reasons are the very purpose of pre-trial  
26 discovery. The information sought must be produced before trial and the court is not empowered to deny  
27 Diamond's discovery rights under this unsubstantiated claim of oppression.

28 "While it is true that the trial court has a broad discretion in passing on an objection that  
there has been harassment and oppression [Citation], such discretion is not absolute. As

1 was said in *Cembrook*, such discretion does not authorize the trial court "to make blanket  
2 orders barring disclosure in toto when the factual situation indicates that a just and  
3 equitable order could be made that would authorize disclosure with limitations." (*Coy*  
4 *v. Superior Court of Contra Costa County* (1962) 58 Cal.2d 210, 221-222.)

#### 4. Objections Based on Class Certification

5 Los Angeles County Waterworks District No. 40 and Rosamond Community Services District  
6 attempt to limit their obligation to respond to the requests on the grounds that class certification has not  
7 yet been completed. This objection holds no merit as the right to discovery prior to class certification  
8 has been recognized by the Appellate Court in *Louis E. Carabini, et al. vs. The Superior Court of*  
9 *Orange County* (1994) 26 Cal.App.4th 239, discovery directed at Class Certification is both appropriate  
10 and permitted in order to ensure a fair hearing.

11 "Appellate courts have recognized the importance of such orders by creating an  
12 exception to the rule denying appellate review. 'Whether the order is directly appealable  
13 or we treat this as a petition for writ of mandate, the issue of the class certification order  
14 is and should be before us.' (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9  
15 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)  
16 Due process requires an order with such significant impact on the viability of a case not  
17 be made without a full opportunity to brief the issues and present evidence. This is true  
18 whether the issue is presented in a motion or by way of an order to show case issued by  
19 the court. In addition, each party should have an opportunity to conduct discovery on  
20 class action issues before its documents in support of or in opposition to the motion must  
21 be filed." *Carabini, supra*, pp. 243-244.

22 Additionally, the request in question is not posed to a class of water purveyors, nor does it seek  
23 information about water purveyor class members. A plain reading of the request evidences that it was  
24 directed to the specific public water supplier concerning that specific public entity's actions with regard  
25 to its specific claim of prescription. If, and to the extent, the request can be characterized as seeking  
26 information about some, yet undefined class, a response is still warranted.

27 "Absent some specific showing by the objecting party to justify a contrary ruling, such  
28 as privilege, a representative plaintiff can be compelled to supply his adversary with the  
29 information about his class which is in his possession or readily available to him and  
30 which is not equally available to an adversary. A representative plaintiff cannot be  
31 compelled to supply information concerning members of his class or their interests in the  
32 action which is neither in his possession nor control, unless the interrogatory is directly  
33 related to his own standing to maintain the action, to the existence of an ascertainable  
34 class, or to the existence of that community of interest which is required to sustain a class  
35 action. [Citation] A representative cannot be compelled to respond to interrogatories  
36 about any class member's separate claim as distinguished from the common claim of the