

1 to the allegations raised by Los Angeles County Waterworks District No. 40 and Rosamond Community
2 Services District through their various complaints, cross-complaints and answers as required by Code
3 of Civil Procedure section 2033.010.

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

10 "While it is true that the trial court has a broad discretion in passing on an objection that
11 there has been harassment and oppression [Citation], such discretion is not absolute. As
12 was said in *Cembrook*, such discretion does not authorize the trial court "to make blanket
13 orders barring disclosure in toto when the factual situation indicates that a just and
equitable order could be made that would authorize disclosure with limitations." (*Coy*
v. Superior Court of Contra Costa County (1962) 58 Cal.2d 210, 221-222.)

14 **4. Objections Based on Class Certification**

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

21 "Appellate courts have recognized the importance of such orders by creating an
22 exception to the rule denying appellate review. 'Whether the order is directly appealable
23 or we treat this as a petition for writ of mandate, the issue of the class certification order
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25 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
26 Due process requires an order with such significant impact on the viability of a case not
27 be made without a full opportunity to brief the issues and present evidence. This is true
28 whether the issue is presented in a motion or by way of an order to show case issued by
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
2 information about water purveyor class members. A plain reading of the request evidences that it was
3 directed to the specific public water supplier concerning that specific public entity's actions with regard
4 to its specific claim of prescription. If, and to the extent, the request can be characterized as seeking
5 information about some, yet undefined class, a response is still warranted.

6 “Absent some specific showing by the objecting party to justify a contrary ruling, such
7 as privilege, a representative plaintiff can be compelled to supply his adversary with the
8 information about his class which is in his possession or readily available to him and
9 which is not equally available to an adversary. A representative plaintiff cannot be
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11 action which is neither in his possession nor control, unless the interrogatory is directly
12 related to his own standing to maintain the action, to the existence of an ascertainable
13 class, or to the existence of that community of interest which is required to sustain a class
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15 about any class member's separate claim as distinguished from the common claim of the
16 class which may be tried with or as a part of the class action.” [Emphasis Added] (*Alpine*
17 *Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

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. 37:**

25 Admit that as of January 1, 1986, YOU believed that the groundwater supply of the BASIN was
26 being overdrafted.

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:**

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3 Defendants have the burden of justifying their objections or their failure to fully answer the
4 interrogatories. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
5 (1962) 58 Cal.2d 210, 220-221.)

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

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

11 **1. Premature**

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

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

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

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

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1 The premature objection also seeks to compromise the purpose of pretrial discovery which is to
2 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782)
3 to assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
4 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
5 to prevent delay; and to safeguard against surprise. [Citations.] (*Britts v. Superior Court* (2006) 145 Cal.
6 App. 4th 1112, 1128.) A party responding to discovery requests may be required to state whether or not
7 he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
8 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
9 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force Los Angeles
10 County Waterworks District No. 40 and Rosamond Community Services District to provide information
11 about their claim of prescription. This is information that they will have to provide in any event, prior
12 to any resolution of their claim of prescription.

13 2. Burdensome

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

18 "[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
19 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
20 empowered to sustain an objection in toto, when the same is predicated upon burden,
21 unless such is the only method of rendering substantial justice." (*W. Pico Furniture Co.*
22 *v. Superior Court* (1961) 56 Cal.2d 407, 418.)

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

1 The fact alone that the response to an interrogatory may be expensive and burdensome
2 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
3 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
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5 “[T]o support an objection of oppression there must be some showing either of an intent
6 to create an unreasonable burden or that the ultimate effect of the burden is
7 incommensurate with the result sought.” (*West Pico Furniture Co. v. Superior Court of*
8 *Los Angeles County* (1961) 56 Cal.2d 407, 417.)

9 The propounding of Request for Admissions [Set One] was not served with any ill intent.
10 Contrary to Los Angeles County Waterworks District No. 40's and Rosamond Community Services
11 District's assertions, the requests are not unreasonable as each of the nine questions posed relate directly
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3 **REQUEST NO. 38:**

4 Admit that as of January 1, 1987, YOU believed that the groundwater supply of the BASIN was
5 being overdrafted.

6 **Defendants' Response**

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

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

11 Defendants have the burden of justifying their objections or their failure to fully answer the
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21 **2. Burdensome**

22 The assertion of this objection is insufficient to justify Los Angeles County Waterworks District
23 No. 40's and Rosamond Community Services District's refusal to respond to Request for Admissions
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11 to Diamond Farming's Request for Admissions [Set One].

12 **REQUEST NO. 39:**

13 Admit that as of January 1, 1988, YOU believed that the groundwater supply of the BASIN was
14 being overdrafted.

15 **Defendants' Response**

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

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

20 Defendants have the burden of justifying their objections or their failure to fully answer the
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9 discovery. The information sought must be produced before trial and the court is not empowered to deny
10 Diamond's discovery rights under this unsubstantiated claim of oppression.

11 "While it is true that the trial court has a broad discretion in passing on an objection that
12 there has been harassment and oppression [Citation], such discretion is not absolute. As
13 was said in *Cembrook*, such discretion does not authorize the trial court "to make blanket
14 orders barring disclosure in toto when the factual situation indicates that a just and
equitable order could be made that would authorize disclosure with limitations." (*Coy*
v. Superior Court of Contra Costa County (1962) 58 Cal.2d 210, 221-222.)

15 4. Objections Based on Class Certification

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

22 "Appellate courts have recognized the importance of such orders by creating an
23 exception to the rule denying appellate review. 'Whether the order is directly appealable
24 or we treat this as a petition for writ of mandate, the issue of the class certification order
25 is and should be before us.' (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 871, fn. 9
26 [196 Cal.Rptr. 69]; see also 9 Witkin, Cal. Procedure (3d ed. 1985) Appeal, § 85, p. 106.)
27 Due process requires an order with such significant impact on the viability of a case not
28 be made without a full opportunity to brief the issues and present evidence. This is true
whether the issue is presented in a motion or by way of an order to show case issued by
the court. In addition, each party should have an opportunity to conduct discovery on

1 class action issues before its documents in support of or in opposition to the motion must
2 be filed." *Carabini, supra*, pp. 243-244.

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

8 "Absent some specific showing by the objecting party to justify a contrary ruling, such
9 as privilege, a representative plaintiff can be compelled to supply his adversary with the
10 information about his class which is in his possession or readily available to him and
11 which is not equally available to an adversary. A representative plaintiff cannot be
12 compelled to supply information concerning members of his class or their interests in the
13 action which is neither in his possession nor control, unless the interrogatory is directly
14 related to his own standing to maintain the action, to the existence of an ascertainable
15 class, or to the existence of that community of interest which is required to sustain a class
16 action. [Citation] A representative cannot be compelled to respond to interrogatories
17 about any class member's separate claim as distinguished from the common claim of the
18 class which may be tried with or as a part of the class action." [Emphasis Added] (*Alpine
19 Mut. Water Co. v. Superior Court of Ventura County* (1968) 259 Cal.App.2d 45, 54-55.)

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

26 **REQUEST NO. 40:**

27 Admit that as of January 1, 1989, YOU believed that the groundwater supply of the BASIN was
28 being overdrafted.

Defendants' Response

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.