

1 **REQUEST NO. 47:**

2 Admit that as of January 1, 1996, YOU believed that the groundwater supply of the BASIN was
3 being overdrafted.

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.
7 No class representative has yet been approved by the court.

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

9 Defendants have the burden of justifying their objections or their failure to fully answer the
10 interrogatories. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255; *Coy v. Superior Court*
11 (1962) 58 Cal.2d 210, 220-221.)

12 "At the hearing of such a motion the burden is on the party interrogated, in this case the
13 defendants, 'of showing facts from which the trial court might find that the
14 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.)

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

17 **1. Premature**

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

20 "(a) A defendant may make requests for admission by a party without
21 leave of court at any time.

22 "(b) A plaintiff may make requests for admission by a party without leave
23 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."

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

6 The premature objection also seeks to compromise the purpose of pretrial discovery which is to
7 obtain all of the facts relative to a claim or defense (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782)
8 to assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
9 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
10 to prevent delay; and to safeguard against surprise. [Citations.] (*Britts v. Superior Court* (2006) 145 Cal.
11 App. 4th 1112, 1128.) A party responding to discovery requests may be required to state whether or not
12 he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
13 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
14 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force Los Angeles
15 County Waterworks District No. 40 and Rosamond Community Services District to provide information
16 about their claim of prescription. This is information that they will have to provide in any event, prior
17 to any resolution of their claim of prescription.

18 2. Burdensome

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

23 "[S]ome burden is inherent in all demands for discovery. The objection of burden is valid
24 only when that burden is demonstrated to result in injustice. Hence, the trial court is not
25 empowered to sustain an objection in toto, when the same is predicated upon burden,
unless such is the only method of rendering substantial justice." (*W. Pico Furniture Co.*
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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.)

11 **3. Oppression**

12 "[T]o support an objection of oppression there must be some showing either of an intent
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

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. 48:**

10 Admit that as of January 1, 1997, YOU believed that the groundwater supply of the BASIN was
11 being overdrafted.

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
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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,
11 unless such is the only method of rendering substantial justice." (*W. Pico Furniture Co.*
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14 Community Services District have alleged prescriptive claims against more than 100,000 landowners
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16 prescription that must be proven by the Water Purveyors if they are to succeed in their claim. Diamond's
17 request is directed at this element. The attempt to hide behind the enormity of their own allegation under
18 a claim of burden is improper and cannot be sustained.

19 The fact alone that the response to an interrogatory may be expensive and burdensome
20 does not justify a refusal to answer. (*Alpine Mut. Water Co. v. Superior Court of Ventura*
21 *County* (1968) 259 Cal.App.2d 45, 55 citing *West Pico Furniture Co. v. Superior Court*
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25 to create an unreasonable burden or that the ultimate effect of the burden is
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30 District's assertions, the requests are not unreasonable as each of the nine questions posed relate directly

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
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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
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the court. In addition, each party should have an opportunity to conduct discovery on
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be filed." *Carabini, supra*, pp. 243-244.

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2 information about water purveyor class members. A plain reading of the request evidences that it was
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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. 49:**

25 Admit that as of January 1, 1998, 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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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
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22 Community Services District’s objections have no merit and have been interposed to these requests for
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25 Waterworks District No. 40 and Rosamond Community Services District must be ordered to respond
26 to Diamond Farming’s Request for Admissions [Set One].

1 **REQUEST NO. 50:**

2 Admit that as of January 1, 1999, YOU believed that the groundwater supply of the BASIN was
3 being overdrafted.

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.
7 No class representative has yet been approved by the court.

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

9 Defendants have the burden of justifying their objections or their failure to fully answer the
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8 to assist the parties and the trier of fact in ascertaining the truth; to encourage settlement by educating
9 the parties as to the strengths of their claims and defenses; to expedite and facilitate preparation and trial;
10 to prevent delay; and to safeguard against surprise. [Citations.] (*Britts v. Superior Court* (2006) 145 Cal.
11 App. 4th 1112, 1128.) A party responding to discovery requests may be required to state whether or not
12 he or she makes a particular contention, and to disclose the evidentiary facts underlying each such
13 contention, as well as each allegation of his complaint or affirmative defense. (*Burke v. Superior Court*
14 (1969) 71 Cal.2d 276, 281.) The information sought by way of this request will force Los Angeles
15 County Waterworks District No. 40 and Rosamond Community Services District to provide information
16 about their claim of prescription. This is information that they will have to provide in any event, prior
17 to any resolution of their claim of prescription.

18 2. Burdensome

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

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

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