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10 a California corporation

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13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 IN AND FOR THE COUNTY OF LOS ANGELES

15 Coordination Proceeding Special Title
16 (Rule 1550 (b))

Judicial Council Coordination No. 4408

17 ANTELOPE VALLEY GROUNDWATER
18 CASES

Case No.: 1-05-CV-049053

19 Included actions:

**POINTS AND AUTHORITIES IN
SUPPORT OF MOTION TO COMPEL
LOS ANGELES WATERWORKS
DISTRICT NO. 40 AND ROSAMOND
COMMUNITY SERVICES DISTRICT
TO PROVIDE FURTHER RESPONSES
TO REQUEST FOR PRODUCTION OF
DOCUMENTS [SET ONE]; AND FOR
MONETARY SANCTIONS**

20 Los Angeles County Waterworks District No.
21 40 vs. Diamond Farming Company
22 Los Angeles Superior Court
23 Case No. BC 325201

24 Los Angeles County Waterworks District No.
25 40 vs. Diamond Farming Company
26 Kern County Superior Court
27 Case No. S-1500-CV 254348 NFT

28 Diamond Farming Company vs. City of
Lancaster
Riverside County Superior Court
Lead Case No. RIC 344436 [Consolidated
w/Case Nos. 344668 & 353840]

Date: October 12, 2007
Time: 9:00 a.m.
Dept.: 1

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1 COMES NOW plaintiff DIAMOND FARMING CO., and submits the following Memorandum
2 of Points and Authorities in support of its Motion for Order Compelling Further Responses to Request
3 for Production of Documents [Set One] and Request for Monetary Sanctions against defendants LOS
4 ANGELES WATERWORKS DISTRICT NO. 40, ROSAMOND COMMUNITY SERVICES
5 DISTRICT and/or defendants' attorney:

6 I. INTRODUCTION

7 The present set of discovery was served by plaintiff Diamond Farming in response to the multiple
8 motions for class certification that were filed with this court. Plaintiff properly served the discovery and
9 the Code of Civil Procedure set the parameters for the format and timing in which responses were due.
10 In response to these requests, all of the Public Water Suppliers, including Los Angeles Waterworks
11 District No. 40 and Rosamond Community Services District, responded with inapplicable generalized
12 objections that do not negate their obligation to provide responses to Diamond's discovery.

13 On July 10, 2007, pursuant to an Ex Parte Request made by Diamond Farming, the court ordered
14 a court-supervised meet and confer hearing on July 20, 2007 to address the issues raised by Diamond's
15 discovery requests. On July 20, counsel for Diamond Farming and the Public Water Purveyors appeared
16 and participated in the meet and confer process. During this conference, no resolution was found and
17 the court ordered counsel for Diamond to continue to meet and confer. Thereafter, counsel for Diamond
18 continued to make efforts to meet and confer in person with counsel for each Public Water Supplier.
19 Diamond's counsel was able to meet with each counsel with the exception of counsel for Los Angeles
20 Waterworks District No. 40 and Rosamond Community Services District.

21 Despite numerous requests, counsel for Los Angeles Waterworks District No. 40 and Rosamond
22 Community Services District refused to coordinate or participate in any further meet and confer attempts
23 which necessitated the filing of this motion.

24 II. STATEMENT OF FACTS

25 On or about May 25, 2007, Diamond Farming Co., served on defendants, Los Angeles County
26 Waterworks District No. 40 and Rosamond Community Services District, a Request for Production of
27 Documents [Set One]. On June 26, 2007, Los Angeles County Waterworks District No. 40 and
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1 Rosamond Community Services District served their responses to the Request for Production of
2 Documents [Set One]. After reviewing the responses, plaintiff's counsel determined that the responses
3 of Los Angeles County Waterworks District No. 40 and Rosamond Community Services District were
4 identical. Each entity asserted a generalized objection to each and every request regardless of what was
5 being asked.

6 On July 20, 2007, plaintiff's counsel attempted to meet and confer with defendants' counsel
7 through the court-supervised conference. Since the parties were unable to come to a resolution, the court
8 ordered plaintiff's counsel to undertake further meet and confer attempts. After attending this
9 court-supervised meet and confer conference, Los Angeles County Waterworks District No. 40 and
10 Rosamond Community Services District failed to and refused to participate in any further meetings to
11 discuss the discovery responses.

12 **III. ARGUMENT**

13 **A. Defendant's Objections are Without Merit and Too General**

14 Code of Civil Procedure section 2031.310 authorizes the propounding party to bring a Motion
15 to Compel when the asserted objections are without merit or too general.

16 Diamond propounded Request for Production of Document [Set One] which was comprised of
17 a total of six (6) individual requests for production. Los Angeles County Waterworks District No. 40
18 and Rosamond Community Services District objected to each and every request and did not produce a
19 single document. As set forth in the Separate Statement in Support of the Motion to Compel Further
20 Responses, each asserted objection lacks merit and is too general in nature to allow Los Angeles County
21 Waterworks District No. 40 and Rosamond Community Services District to avoid producing the
22 responsive documents.

23 **B. Sanctions are Warranted for Defendants' Misuse of the Discovery Process and for 24 their Failure to Meet and Confer in Good Faith**

25 Defendants' method of responding to discovery amounts to a willful refusal to respond to
26 properly served Request for Production of Documents [Set One]. This willful refusal warrants the
27 imposition of sanctions. Code of Civil Procedure sections 2023.010, et seq. and 2031.310(d) provide
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1 authority for the imposition of monetary sanctions for counsel's failure to provide responses that comply
2 with the requirements of Code of Civil Procedure sections 2031.210, et seq.

3 Sanctions are also warranted for abuses of discovery. Abuses of discovery under section
4 2023.010 include: "(b) Using a discovery method in a manner that does not comply with its specified
5 procedures; (c) employing a discovery method in a manner that causes unwarranted annoyance,
6 embarrassment, oppression, or undue burden and expense; (e) making, without substantial justification,
7 an unmeritorious objection to discovery; and (i) failing to meet and confer . . . in a reasonable and good
8 faith attempt to resolve informally any dispute concerning discovery" Defendants have engaged in
9 each of the four actions stated above. Such behavior on the part of defendants and defendants' counsel
10 is willful and without substantial justification, and therefore merits the imposition of monetary sanctions.

11 Sanctions are also mandated for defendants' failure to meet and confer. Counsel for defendants
12 was aware that the discovery issues had not been resolved on July 20, 2007. Defendants' counsel was
13 also aware of the court's further order to plaintiff to further meet and confer. Defendants' counsel was
14 invited to meet and confer on several occasions by written correspondence and by telephone, but never
15 responded. Despite receiving these various invitations, defendants' counsel did not participate in the meet
16 and confer process and did not respond to plaintiff's inquiries until August 28, 2007, when defendants'
17 counsel disingenuously claimed that he believed the discovery had been withdrawn. To date, defendants
18 have evaded Diamond's every attempt to conduct discovery and every attempt to meet and confer. This
19 refusal to meet and confer warrants the mandatory imposition of sanctions regardless of the outcome of
20 the underlying motion. (Code Civ. Proc., § 2023.020.)

21 Plaintiff has incurred needless expense in having to seek a court order to obtain defendants'
22 further responses in compliance with the Code of Civil Procedure. Consequently, plaintiff is therefore
23 entitled to monetary sanctions against defendants and/or defendants' attorneys of record, in the amount
24 of \$1415.00, as more fully set forth in the Declaration of Bob H. Joyce, filed concurrently herewith.


25 IV. CONCLUSION

26 Based upon the foregoing argument and authorities, Diamond Farming Co., respectfully requests
27 that this motion be granted, and that the court issue its order commanding defendants, Los Angeles
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1 County Waterworks District No. 40 and Rosamond Community Services District to provide further
2 written responses and all documents responsive to Request for Production of Documents [Set One]
3 without objection. Diamond Farming further requests that this court order defendants, Los Angeles
4 County Waterworks District No. 40 and Rosamond Community Services District, and/or defendants'
5 counsel of record, to pay monetary sanctions to Diamond Farming Co., in the amount of \$1,415.00.

6 Dated: September 12, 2007

LeBEAU • THELEN, LLP

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8 By: 
9 BOB H. JOYCE
10 Attorneys for DIAMOND FARMING COMPANY,
11 a California corporation
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