

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

**ANTELOPE VALLEY GROUNDWATER
CASES**

Included Consolidated Actions:

Los Angeles County Waterworks District No.
40 v. Diamond Farming Co.
Superior Court of California
County of Los Angeles, Case No. BC 325 201

Los Angeles County Waterworks District No.
40 v. Diamond Farming Co.
Superior Court of California, County of Kern,
Case No. S-1500-CV-254-348

Wm. Bolthouse Farms, Inc. v. City of Lancaster
Diamond Farming Co. v. City of Lancaster
Diamond Farming Co. v. Palmdale Water Dist.
Superior Court of California, County of
Riverside, consolidated actions, Case Nos.
RIC 353 840, RIC 344 436, RIC 344 668

Rebecca Lee Willis v. Los Angeles County
Waterworks District No. 40
Superior Court of California, County of Los
Angeles, Case No. BC 364 553

Richard A. Wood v. Los Angeles County
Waterworks District No. 40
Superior Court of California, County of Los
Angeles, Case No. BC 391 869

Judicial Council Coordination
Proceeding No. 4408

Lead Case No. BC 325 201

**ORDER AFTER HEARING ON
JANUARY 22, 2015**

**CROSS DEFENDANT BLUM
TRUST MOTION FOR SUMMARY
JUDGMENT/SUMMARY
ADJUDICATION OF ISSUES**

Hearing Date(s): January 22, 2015
Time: 11:00 a.m.
Location: Department 12

Superior Court of California
County of Santa Clara
191 N. 1st Street
San Jose, CA 95113

Judge: Honorable Jack Komar, Ret.

1 I. PRELIMINARY

2 The Blum Trust (Blum or Trust) has filed its motion for summary judgment, or
3 alternatively, summary adjudication of issues, against Cross-Complainants Public Water
4 Suppliers on their Amended Cross Complaint for Declaratory Relief on the grounds that there is
5 no triable issue of fact and that the Trust is entitled to judgment as a matter of law. The Motion
6 also seeks such a judgment as to all other cross defendants who claim against the Trust's water
7 rights. It is noted that only the Public Water Suppliers have filed an action against Blum in these
8 coordinated proceedings. The Blum/ Bolthouse parties separate action and cross action was
9 severed from these coordinated proceedings and is no longer part of this litigation.

10 Thus all other parties in these proceedings except for the Public Water Suppliers, and the
11 two Class Actions, are co-cross defendants or co-defendants with the Blum Trust with regard to
12 this motion and the trust has neither an action nor a proper prayer for relief against any of them.

13 Blum also contends that the trust has affirmative defenses that act as a complete bar to
14 any "Basin priority relief" claim the public water producers may have against the trust or its
15 property, stating that the trust has acted within its rights and is not responsible for the acts or
16 omissions of others which resulted in loss or damage (overdraft), the doctrines of equitable
17 estoppel and judicial estoppel bar the public water suppliers from contesting or contradicting the
18 Trust's ground water production entitlement, the trusts water rights are superior or co-equal to
19 Cross-complainant's rights, and that the trust is deprived of equal protection and due process by
20 the public water suppliers, the overlying owners, and the federal government.

21 Blum also seeks summary adjudication of the following issues: All water pumped from
22 the lands of Bolthouse Farms and used on Blum Trust's lands belongs to the trust; equitable and
23 judicial estoppel bars the Bolthouse entities from disputing the claims of Bolthouse; the Blum
24 Trust has suffered legal injury to its three wells through disuse; and Blum is not liable for Wood
25 Class attorneys' fees and costs.¹

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27
28 ¹ None of these issues would completely dispose of any cause of action in the cross complaint even if supported by the evidence.

1 Oppositions have been filed or joined in by the Public Water Suppliers, including Los
2 Angeles County Waterworks District 40, City of Palmdale, Palmdale Water District, City of
3 Lancaster, Rosamund Community Services District, Little Creek Irrigations District, Palm
4 Ranch Irrigation District, Desert Lake Irrigation District, North Edwards Water District, Llano
5 Del Rio Water Company, Llano Mutual Water Company, Big Rick Water Company, Quartz Hill
6 Water District, California Water Service Company, Landinv, Inc., Bruce Burrows; 300 A 40H,
7 LLC, Little Rock Sand and Gravel, Inc., The George and Charlene Lane Family Trust, The Frank
8 and Yvonne Lane 1993 Family Trust, Monte Vista Building Sites, Inc., A.V. Materials, Inc.,
9 Diamond Farming Company., a California Corporation, Crystal Organic Farms, a Limited
10 Liability Company, Grimmway Enterprises, Inc., Lapis Land Company, LLC, State of
11 California, City of Los Angeles, State of California 50th District Agricultural Association,
12 County Sanitation Districts of Los Angeles County Nos. 14 and 20, and the Antelope Valley-
13 East Kern Water Agency, Tejon Ranch Corp., Granite Construction Co., Bolthouse Properties,
14 LLC, and Wm. Bolthouse Farms, Inc.

15 The parties who have individually filed oppositions to the Blum Motions are as follows:
16 Public Water Suppliers, Public Water Landowners consisting of the State of California, the City
17 of Los Angeles, County Sanitation Districts of Los Angeles County Nos. 14 and 20, and the
18 Antelope Valley-East Kern Water Agency,, Bolthouse Properties, LLC and W.M. Bolthouse
19 Farms, Inc., Diamond Farming Company Crystal Organic Farms, Grimmway Enterprises, Inc.,
20 Lapis Land Company, LLC., Tejon Ranch Corp, Granite Construction Co. All others listed
21 above have joined in the opposition and objections. Of these, only the Public Water Suppliers are
22 parties seeking relief against the Blum Trust so that the decision on these motions only relate to
23 those parties.

24 The Bolthouse entities, Tejon Corp., Granite Construction Co., the Grimmway
25 Enterprises, Inc., Diamond Farming Company, Crystal Organic, Lapis Land Company, and the
26 Public Water Land Owner parties are not adverse parties to the Blum trust, have no pending
27 actions against Blum and Blum has no pending actions against any of these entities. All of them
28 and the Public Water Landowners are in fact Co-Cross Defendants with Blum. Blum

1 demonstrates no basis for Summary Judgment or Summary Adjudication of Issues against any of
2 them.² The court has treated the objections and opposition briefs filed by these parties as *amicus*
3 *curiae* on issues arising from the claims of the Public Water Suppliers against the Blum Trust.

4 The Blum Trust has filed a reply brief.

5 The court has read and considered all briefs, requests, and objections filed by the parties.

6
7 **A. Request for Judicial Notice by the Blum Trust**

8 Blum requests that the court take judicial notice of Exhibits A through M attached to the
9 request, as well as provisions of the California and United States Constitutions.

10 Opposing parties object to the requests for judicial notice as to Exhibits A, B, C, D, E, F,
11 G, H, I, J, K, L, and M on the grounds that requesting party has failed to advise the court as to
12 the reason for the request so that the court can evaluate the propriety of taking judicial notice as
13 to each, and in addition, on the grounds that the court cannot take notice of the truth of
14 statements made in the material for which requesting party seeks judicial notice.

15 Exhibit A- Copies of Deeds with miscellaneous documents.

16 Exhibit B- Facsimiles from DWR and Well Index Cards- Grounds:

17 Exhibit C- Leggio Declaration re Bolthouse water use in lieu of Deposition;

18 Exhibit D- Leggio Amended Declaration in lieu of deposition;

19 Exhibit E- Scalmanini Water Duty Exhibit from Phase Three trial;

20 Exhibit F- First Amended Cross Complaint of Public Water Suppliers;

21 Exhibit G- Blum Answer to Amended Cross Complaint of Public Water Suppliers;

22 Exhibit H- Stipulation of Public Water Suppliers and Blum;

23 Exhibit I- Sakai Declaration;

24 Exhibit J- Public Water Suppliers Case Management Statement;

25 Exhibit K: LAWA Statement Regarding Proposed Discovery;

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27
28 ² A prior pending action between Blum and Bolthouse was severed from these proceedings and was, at least partially
resolved by written settlement agreement executed in December 2008, although each had answered in this
proceeding and would remain cross defendant parties to the cross complaint filed by the Public Water Producers.

1 Exhibit L- Wood Class Case Management Statement;

2 Exhibit M- Unsigned Stipulation for Settlement.

3 **B. Request for Judicial Notice by Public Water Producers**

4 The Public Water Producers request that the court take judicial notice of the Court's
5 Statement of Decision in the Phase Three Trial, the findings of fact and conclusion of law
6 contained therein, and District 40's Notice of Amended Statement of Claim dated February 17,
7 2014.

8 **C. Ruling on Request for Judicial Notice**

9 Judicial notice may be taken of "Official acts of the legislative, executive, and judicial
10 departments of the United States and of any state of the United States." Evidence Code § 452(c).
11 Evidence Code Section 451(a) through (e) specifies that which a court must judicially notice.
12 "The trial court shall take judicial notice of any matter specified in Section 452 if a party
13 requests it and: (a) gives each adverse party sufficient notice of the request, through the
14 pleadings or otherwise, to enable such adverse party to prepare to meet the request; and (b)
15 furnishes the court with sufficient information to enable it to take judicial notice of the matter."
16 Evidence Code § 453.

17 **1. BLUM TRUST JUDICIAL NOTICE REQUESTS**

18 The objections to the Blum Trust's Requests for Judicial Notice are sustained in their
19 entirety based on the grounds stated in the objections. The court may take judicial notice, either
20 mandatorily or in its discretion, but in each situation the requesting party must establish a basis
21 for such and here requesting party has failed to comply with that requirement. While several of
22 the requests might be proper if authenticated, and properly requested, even then the use of
23 Judicial Notice to prove that a document exists does not act as proof that the facts contained in
24 the document are true unless within a statutory category such as statement of decision in a court
25 case. If a document cannot be judicially noticed to establish a particular fact contained in the
26 document, that fact may nonetheless be offered in evidence with a proper foundation by which
27 the court may weigh the evidence in support of the fact to establish its validity.

28 **2. PUBLIC WATER SUPPLIERS JUDICIAL NOTICE REQUESTS**

1 It appears that no objections to the Public Water Supplier's Request for Judicial Notice
2 have been made, and good cause appearing, the request is granted as to the Statement of
3 Decision of the Phase Three trial as well as the Conclusions of Law and Finding of facts
4 contained therein. The request is also granted as to the Amended Statement of Claim and the fact
5 that it was filed but not as to the truth of statements contained therein.

6 **D. Rulings on Objections to Separate Statement**

7 The opposing parties have filed objections to various individual facts in Blum's Separate
8 Statement in support of its motion and the court sustains the objections as specified in Section E
9 below.

10 **E. Decision**

11 "The party moving for summary judgment bears an initial burden of production to make
12 a prima facie showing of the nonexistence of any triable issue of material fact." *Aguilar v. Atl.*
13 *Richfield Co.* (2001) 25 Cal. 4th 826, 850. "All that the defendant need do is to show that the
14 plaintiff cannot establish at least one element of the cause of action." *Id.* at 853. Once the
15 defendant has met that burden, the burden shifts to the plaintiff "to show that a triable issue of
16 one or more material facts exists as to that cause of action or a defense thereto." Cal. Civ. Proc.
17 Code § 437c(p)(2).

18 A party may move for summary adjudication as to one or more causes of action within an
19 action if that party contends that the cause of action has no merit. Cal. Civ. Proc. Code §
20 437c(f)(1). A defendant "has met his or her burden of showing that a cause of action has no
21 merit if that party has shown that one or more elements of the cause of action cannot be
22 established, or that there is a complete defense to that cause of action." Cal. Civ. Proc. Code §
23 437c(p)(2).

24 The Blum Trust submits Five Issues, Four Sub-issues, and fifty three purported
25 "Undisputed Facts" in a Separate Statement of Undisputed Facts in support of the motion,
26 alleging that there is no issue of fact that supports any claim against the Trust, and therefore,
27 argues that the trust is entitled to judgment.

1 Among the Trust's contentions is that it joined with Bolthouse to create a "farming unit"
2 and that it was entitled to at least a 531 acre foot annual pumping priority to produce ground
3 water from its land. There was no competent evidence submitted that there was in fact a farming
4 unit created. That is not to rule that there was no farming unit or what the consequences as a
5 matter of law of such might be if one were established by the evidence. Nor is the Court ruling
6 that the Trust property is subject to prescriptive claims of any party. The only ruling on this
7 issue and all other issues is that there is insufficient evidence presented to the court to establish a
8 right to pump a specific amount of ground water based on a farming unit or on any other basis
9 shown by the purported separate statement of facts.

10 The Trust alleges that it is deprived of equal protection and due process under the law as
11 a result of a "Global Settlement" of the case by the Public Water Producers, the Federal
12 Government, the Land Owners (both public and private) and the Class Actions, but presents no
13 competent evidence or legal theory to support that claim.

14 The Motion for Summary Judgment or alternatively Summary Adjudication of Issues is
15 denied because the motion fail to establish that there are no issues of fact with regard to any
16 cause of action or affirmative defense or that the Blum Trust is entitled to judgment as a matter
17 of law. The Motion fails to establish that there are undisputed facts regarding to any cause of
18 action or issue in the Amended Cross Complaint.

19 Any reference to a Global Settlement as impacting the Blum Trust is premature and
20 inappropriate; there is no approved settlement. Secondly, any so-called Global Settlement is only
21 between the parties to the settlement and cannot bind or affect the rights under the federal and
22 state constitutions of parties who are not parties to the settlement. Just as the court in its ruling
23 approving the Willis Class settlement found that the settlement could not affect non-parties to the
24 settlement, the same is true as to those who are not parties to any other settlement, including the
25 so-called Global Settlement if it is approved.

26 The claim that the Public Water Producers will somehow gain their right of prescription
27 against the Trust without presenting evidence at trial is not based on any legal principle nor
28 based on any evidence presented here nor asserted by any party adverse to the Blum Trust. If any

1 parties agree as part of a settlement to resolve an issue or issues among them, the settlement
2 cannot legally affect any non party or the public interest. Such a settlement only affects those
3 who are party to the agreement. The Trust's statement in its Reply to the opposition to this
4 motion argues that the proposed Global Physical Solution leaves the Trust without any
5 procedure to challenge the ground water allocation of "excluded party Blum Trust." That
6 argument is simply wrong and a failure to understand the nature of the proposed settlement,
7 whatever its terms may be, and the legal effect thereof.

8 The Wood Class claim for attorneys' fees is not before the court and the motion with
9 regard to those issues is also not before the court or otherwise ripe for determination, nor are
10 there any facts that would permit the court to rule on the issue before the court. The request for
11 findings concerning that issue is premature and therefore denied.

12
13 **1. SEPARATE STATEMENT ISSUES**
14 **ISSUE ONE**

15 The public water producers Amended Cross Complaint in seven causes of action seeks a
16 declaration that the public water producers are entitled to prescriptive or appropriative rights in
17 the Antelope Valley ground water basin.

18 The Blum Trust relies upon judicial notice and the Declaration of Sheldon Blum to
19 establish certain of the facts. The Trust provides no proper basis for the court to take judicial
20 notice of material facts, including Facts 1, 2, 5, 8, 9, 11, 12, 13, 14, 16, 17, 18, and 21. The
21 court declines to take judicial notice of such facts for the reasons stated in Paragraph C above.
22 Also, for the reasons stated in ruling on objections to evidence in the purported facts below, the
23 evidence submitted is insufficient to establish the Blum Trust's entitlement to the issues of fact
24 or law as requested.

25 The court finds that the evidence to which objections are sustained as set forth below
26 (and the failure to provide a foundation or good cause to judicially notice facts as reflected in
27 Paragraph C) fails to establish that the purported facts are undisputed in support of any issue.
28

1 The description below of the asserted "fact" by the court and the "objection itself" are
2 shorthand and descriptive only.

3 Blum's Fact One asserts that the trust owned 150 acres at all pertinent times and is
4 objected to for failure to present competent evidence. The documents in support of this all
5 inclusive fact are not authenticated and while ownership of land by the trust may not reasonably
6 be in dispute, the details of such ownership are not authenticated and lack foundation. The
7 objection is sustained. A Trustee can generally testify to ownership but not as to disputed details
8 of the land itself.

9 Fact Two regarding correlative rights is a legal and factual conclusion and not a proper
10 fact. The objection is sustained.

11 Fact Three is a statement of mental state and irrelevant to any issue required to be proved
12 by any party. The objection is sustained.

13 Fact Four as to well location is disputed as lacking authentication and foundation. The
14 objection is sustained.

15 Fact Five (well data) is objected to as not authenticated and hearsay and the objection is
16 sustained.

17 Fact Six references dormant acreage and legal conclusions and is objected to on the
18 grounds that there is no foundation or authentication of any facts. The objection is sustained.

19 Fact Seven references an agreement between the Blum Trust and Bolthouse Farms for the
20 lease of Trust property by Bolthouse. This fact is disputed as lacking authentication. It is also
21 irrelevant in connection with the Public Water Supplier's Action against the Blum Trust.
22 Objection sustained.

23 Fact eight relates to Bolthouse pumping water from its wells located on Bolthouse
24 property and is objected to as lacking authentication, hearsay, and no competent evidence.
25 Objection sustained.

26 Fact Nine states as a fact that the Trust Property leased to Bolthouse was a "Farming
27 Unit. The objection is that no competent evidence supports this conclusion and what purports to
28 be a fact is a legal conclusion. The objection is sustained.

1 Fact Ten states multiple facts regarding the "Farming Unit". The objection is hearsay and
2 legal conclusions and that no admissible evidence supports the conclusions. The objection is
3 sustained.

4 Fact Eleven states a legal conclusion relating to a so-called "farming unit." The objection
5 is sustained.

6 Fact Twelve quotes as a fact a statement from a Public Water Suppliers' Case
7 Management Statement. The objection is that it is not a fact and is not supported by competent
8 evidence. The objection is sustained.

9 Fact Thirteen quotes from a City of Los Angeles Discovery Proposal and is objected to
10 as a legal conclusion and improper statement of counsel. The objection is sustained.

11 Fact Fourteen consists of quotes from the First Amended Cross Complaint and is
12 objected to as being out of context and not a fact. The objection is sustained.

13 Fact Fifteen regarding "place of use" and "farming units" is objected to as unsupported
14 by evidence and as a legal conclusion unsupported by evidence. The objection is sustained.

15 Fact Sixteen is a reference to a stipulation regarding water production and has no
16 relevance here and is a legal conclusion. The objection is sustained.

17 Fact Seventeen is a statement that the Trust's water rights are supported by Bolthouse
18 records and is objected to as unsupported by competent evidence and is a legal conclusion. The
19 objection is sustained.

20 Fact Eighteen is a reference to testimony of Joseph Scalmanini regarding water duties
21 and is objected to as lacking foundation and authentication. The objection is sustained.

22 Fact Nineteen refers to ground water computations and references stipulations and trial
23 exhibits and is objected to as not supported by competent evidence and contains legal
24 conclusions. Objection is sustained.

25 Fact Twenty references a farming unit with the Trust and Bolthouse. The objection is that
26 it is not supported by competent evidence. The objection is sustained.

27 Fact Twenty-One is a statement of the Trust's position stated in its answers and is not a
28 proper fact. The objection is sustained.

1 Fact Twenty-Two states a legal conclusion as to the Trusts legal rights. Objection is
2 sustained.

3 All of the facts in Facts numbered 1 through 22 are disputed facts and do not establish
4 that the Trust is entitled to judgment or adjudication as to any Issue.

5
6 **ISSUE TWO**

7 The Trust asserts that all Ground Water pumped by Bolthouse from Bolthouse property
8 to Blum Trust Property for agricultural use belongs to the Trust and not Bolthouse, as a matter of
9 law.

10 The court finds that the objections to evidence which are sustained as set forth below
11 (and the failure to provide judicially noticeable facts as reflected in Paragraph C above) fail to
12 establish that the issues of fact regarding Issue Number two are undisputed.

13 Fact One states that the lease agreement between the Trust and Bolthouse creates
14 covenants running with the land and certain benefits. The objection is lack of foundation,
15 hearsay, and legal conclusion. The objection is sustained.

16 Fact Two states that the Trust filed a complaint against Bolthouse making certain
17 allegations that are objected to as hearsay and inadmissible secondary evidence. The objection is
18 sustained.

19 Fact Three states that the Trust Bolthouse litigation was severed from these coordinated
20 proceedings and discovery ensued. This fact is objected to as being without support in
21 admissible evidence and is hearsay. The objection is sustained.

22 Fact Four references discovery responses in the Bolthouse /Trust litigation and is an
23 admission that Bolthouse LLC does not have any leasehold or contractual water rights with the
24 Trust. The objection is hearsay, no admissible evidence, and states a legal conclusion. The
25 objection is sustained.

26 Fact Five states that Bolthouse and the Blum Trust entered into a settlement agreement in
27 the severed litigation to allocate Bolthouse water production for water used on the Trust property
28

1 to the Trust. The objection is lack of admissible evidence, hearsay, legal conclusion, and
2 secondary evidence. The Objection is sustained.

3 Fact Six quotes deposition witness testimony. The objection is that it is secondary
4 evidence, hearsay, and no foundation. The objection is sustained.

5 Fact Seven states as a fact that the Bolthouse lease agreement contains covenants running
6 with the land. The objection is that it lacks foundation, is hearsay, and states a legal conclusion.
7 The objection is sustained.

8 Fact Eight states that Bolthouse pumping claims are not in conflict with the Trust's water
9 rights claims. The objection is no foundation, no admissible evidence, hearsay, and legal
10 conclusion. The objection is sustained.

11 Fact Nine states that there are no facts regarding place of use production entitlement or
12 forfeiture of production rights. This is objected to as lacking admissible evidence and states a
13 legal conclusion. The objection is sustained.

14 Fact Ten asserts as a fact that the Bolthouse entities should be barred by the doctrines of
15 equitable estoppel and judicial estoppel from contesting the Trusts water rights. Objection is that
16 it is a legal conclusion and does not state a fact. The objection is sustained
17

18 **ISSUE THREE (A, B, C, and D)**

19 Blum Trust asserts that it has complete defenses as averred in its affirmative defenses filed
20 in its answer to the First through Seventh Causes of Action alleged in the Cross Complaint which
21 bars the relief sought by the Public Water Producers.

22 **ISSUE (A)** The Blum trust acted within its groundwater production rights and is not
23 responsible for damages due to the acts of others (causing overdraft).

24 Fact One is that the Trust exercised its ground water production in Conformity with
25 California and Federal Law and good agricultural operations. This is objected to as being
26 unsupported by competent evidence and constitutes a legal conclusion. The objection is
27 sustained.
28

1 Fact Two states that the place of use methodology under a "farming unit" is an acceptable
2 way to acquire a California water priority. Objected to as being unsupported by the admissible
3 evidence and states a legal conclusion. The objection is sustained.

4 Fact Three states that the Trust is fee owner and entitled to the reasonable and beneficial
5 use of groundwater underlying its property. Objection is that this is not a fact but a legal
6 conclusion. Objection is sustained.

7 ISSUE (B) The Blum Trust asserts that the doctrine of judicial and equitable estoppel bar
8 the Public Water Producers from contesting or contradicting the Trust's ground water entitlement
9 to the basin.

10 Fact One is that the cross complainants have used multiple APN parcels as a unit
11 in establishing a "place of use" parcel for ground water entitlement as have Bolthouse and the
12 Trust. The Objection is that there is no admissible evidence produced to support this conclusion
13 and that it is a legal conclusion and not a fact. The objection is sustained.

14 Fact Two is that Cross complainants and the Trust alike have calculated a right to pump
15 ground water from the basin in an annual amount equal to the highest volume of ground water
16 extracted in any given year and the objection is that this is a legal conclusion and a misstatement
17 of an allegation in the Cross Complaint in this action. The objection is sustained.

18 Fact Three is a stipulation entered into with the Public Water Producers. The objection is
19 that there is no admissible evidence offered by the Trust in support of this conclusion and that it
20 is a misstatement of the language in the stipulation. The objection is sustained.

21 Fact Four is a statement that it is unjust for the cross complainants to contradict or contest
22 the claims of the Trust's place of use methodology and annual acre feet entitlement. The
23 objection that it is a legal conclusion unsupported by any admissible evidence is sustained.

24 ISSUE (C) The Trust asserts that the trust's water rights are either superior to the Cross
25 complainants' or co-equal thereto.

26 Fact One incorporates by reference all facts under Issues One and Two. Objecting parties
27 incorporate all of their responses to such facts. Incorporation by reference is not a proper
28 statement of a fact. The court sustains an objection to this supposed fact.

1 Fact Two states that Bolthouse must offset its ground water allocated production share by
2 531 acre feet a year etc. The objection is that no admissible evidence has been produced to
3 support this contention and that it is a legal conclusion. The objection is sustained.

4 (D) The Trust asserts that it is denied Equal protection and due process under the law by
5 cross complainants, Landowners, and the federal government

6 Fact One cites the federal and state constitutions. This is a conclusion and not a fact and
7 the objection is sustained. The court does take judicial notice of the same.

8 Fact Two states that the "Proposed Global Stipulation" violates the trust's rights. The
9 objection is sustained. There is no Global stipulation in place and no facts concerning such are
10 presented.

11 Fact Three states in conclusion that the Trust has been denied any percentage share or
12 quantified annual volume of water from the basin. There are no facts in support of this legal
13 conclusion and the objection is sustained.

14 Fact Four refers to a part of a global settlement and the objection is sustained as not being
15 a fact and not admissible at this point of time in any event.

16 Fact Five states that the Trust's and Boathouse's stipulation has been impaired or
17 breached under a proposed Global Settlement. The objection is sustained. It is at most a legal
18 conclusion and inappropriate reference to a settlement between other parties.

19
20 **ISSUE FOUR**

21 The Trust asserts that it has suffered a legal injury and severe financial hardship because
22 of damage to its three wells causing involuntary and compelled disuse which will result in the
23 loss of the trust's loss of production entitlement in times of overdraft and cutback under the
24 California water priority allocation system.³

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28 ³ These issues have no relevance to the cross complaint of the Public Water Suppliers and even if true would not dispose of any issue arising from the cross complaint but are part of the dispute between the Trust and the Bolthouse parties.

1 Fact One refers to a provision in a lease between the Trust and Bolthouse. The objection
2 is that it is a legal conclusion and not admissible evidence and is not supported by admissible
3 evidence. The objection is sustained.

4 Fact Two is a statement that Bolthouse failed to weld well openings in violation of a
5 contractual obligation and that the wells were filled with dirt, debris and rock which caused
6 damage to the wells. The objection is that no competent evidence supports this fact. The
7 objection is sustained.

8 Fact Three is that the Trust is unable to lease its property to a farmer in effect because of
9 the lack of functioning wells. The objection is that there is no admissible evidence to support the
10 conclusion. The objection is sustained.

11 **ISSUE FIVE**

12 The trust asserts that it is not liable for Wood Class Action Attorneys' fees and costs
13 under any legal theory.

14 Fact One: The Blum Trust was not sued by the Wood Class Action. Objection overruled
15 and found to be true.

16 Fact Two is that there is no benefit to the Trust from the Wood Class Action Law suit.
17 This is a legal conclusion, not a proper fact, and the objection is sustained.

18 Fact Three is that the Trust receives no benefit from the Wood Class action under CCP
19 1021.5. This is a legal conclusion. The objection is sustained.

20 Fact Four is a statement from the Wood Class Case Management Statement of August 11,
21 2014 to the effect that only the Public Water Producers should pay Class attorneys fees and
22 costs. This is not a proper fact and the objection is sustained.

23 ///

24 ///

25 ///

26 ///

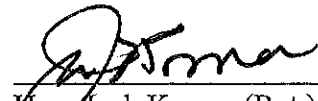
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1 CONCLUSION

2 Moving Party, the Blum Trust, has failed to present competent evidence to establish
3 undisputed facts in support of its contentions that it is entitled to Summary Judgment or that it is
4 entitled to Summary Adjudication of the issues presented.

5
6 Dated: _____

1-22-2015



Hon. Jack Komar (Ret.)
Judge of the Superior Court