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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:

**NOTICE OF MOTION AND MOTION
FOR JUDGMENT ON THE
PLEADINGS**

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

Date: TO BE DETERMINED/SET
BY THE COURT

Time:
Dept:

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]

AND RELATED CROSS-ACTIONS.

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1 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that the Court will set the date, time and location for hearing the
3 Motion for Judgment on the Pleadings filed herewith. Said motion is made to the entire First Amended
4 Cross-Complaint (hereinafter the "Complaint") filed by the Public Water Purveyors, and is made on the
5 basis that the Complaint fails to state a cause of action against cross-defendants based upon the
6 following ground:

7 1. The Complaint, and the relief sought therein, is barred by Cal. Constitution, Article I, §
8 19.

9 The Motion is based on this Notice of Hearing and Motion; the Memorandum of Points and
10 Authorities Supporting the Motion for Judgment on the Pleadings, filed separately and concurrently
11 herewith; all pleadings, papers, and records in the Superior Court Clerk's file pertaining to the action;
12 and any Reply or Supplemental Memoranda or Requests for Judicial Notice which may be hereafter filed
13 in support of the Motion; and on the oral argument presented at the time of the hearing.

14
15 Dated: September 20, 2013

LeBEAU • THELEN, LLP

16
17 By: 

BOB H. JOYCE

Attorneys for Cross- Defendants DIAMOND
FARMING COMPANY, a California
corporation, CRYSTAL ORGANIC FARMS, a
limited liability company, GRIMMWAY
ENTERPRISES, INC., and LAPIS LAND
COMPANY, LLC

21
22 **MEMORANDUM OF POINTS AND AUTHORITIES**

23 **I. INTRODUCTION**

24 This action was brought to establish title to water rights located in the Antelope Valley. In
25 the First Amended Cross-Complaint, (hereinafter the "Complaint"), filed March 13, 2007, the
26 Public Water Purveyors claim they acquired a prescriptive right in the waters of the Basin.

27 The Public Water Purveyors cannot constitutionally acquire and commit to public use the
28 water rights in issue under a theory of prescription, and thereby avoid payment to the affected

landowners of just compensation. As shown below, the California Constitution is a limit on the government's power to take private property by any means other than the payment of just compensation. Since the State constitution operates to bar the Public Water Purveyors' claim, they will be unable to amend their Complaint to state a claim for prescriptive water rights, therefore, this Motion must be granted without leave to amend.

II. STATEMENT OF FACTS

Since the Motion for Judgment on the pleadings is generally confined to the allegations contained in the Complaint, accepting as true all material facts alleged therein, cross-defendants have briefly summarized the Complaint without tediously prefacing every sentence with the qualifier, "allegedly," but defendant disputes the truth and accuracy of the allegations and makes no binding judicial admissions. (See *City of Atascadero v. Merrill Lynch, Pierce, Fenner & Smith, Inc.* (1998) 68 Cal.App.4th 445, 459.)

The City of Lancaster is a municipal corporation. (*Id.* ¶ 3.) The City of Palmdale is a municipal corporation. (*Id.* ¶ 4.) Littlerock Creek Irrigation District is a public agency. (*Id.* ¶ 5.) Los Angeles County Waterworks District No. 40 is a public agency governed by the Los Angeles County Board of Supervisors. (*Id.* ¶ 6.) Palmdale Water District is an irrigation district organized under Division 11 of the California Water Code. (*Id.* ¶ 7.) Palm Ranch Irrigation District is a public agency. (*Id.* ¶ 8.) Rosamond Community Services District which has constructed, maintained and operated a public waterworks system to supply water to the public. (*Id.* ¶ 9.) Quartz Hill Water District is a county water district organized and operating under Division 12 of the California Water Code. (*Id.* ¶ 10.) In summary, the abovementioned Public Water Purveyors are all public entities.

The Public Water Purveyors' First Cause of Action seeks to confirm prescriptive water rights. (*Id.* ¶ 42.) The Public Water Purveyors claim that they have pumped water from the basin for more than five years for reasonable and beneficial purposes under a claim of right in actual, open, notorious, exclusive, continuous, hostile and adverse manner. (*Id.* ¶ 42.) The Public Water Purveyors also claim "that each cross-defendant has actual and/or constructive notice of these activities, either of which is sufficient to establish the Public Water Purveyors' prescriptive rights." (*Id.* ¶ 42.)

///

1 The California State Constitution, Article I, section 19 precludes the prescription claims as
2 pled.

3 III. LEGAL AUTHORITY

4 A motion for judgment on the pleadings can be either a statutory or a common law motion.
5 A defendant is permitted, under Code of Civil Procedure section 438, to move for judgment on the
6 pleadings if a Complaint fails to state facts sufficient to constitute a cause of action against that
7 defendant. (Code of Civ. Proc. § 438(c)(1)(B)(ii).) Such a motion can be directed to the Complaint as
8 a whole or to any cause of action therein. (Code of Civ. Proc. § 438(c)(2)(A).) A defendant may
9 bring a motion for judgment on the pleadings provided that it has filed its answer and the time for the
10 defendant to demur to the Complaint has expired. (Code of Civ. Proc. § 438(f)(2).)

11 "The standard for granting a motion for judgment on the pleadings is essentially the
12 same as that applicable to a general demurrer, that is, under the state of the pleadings,
13 together with matters that may be judicially noticed, it appears that a party is entitled
to judgment as a matter of law." (Code Civ. Proc., § 438, subd. (d); *Schabarum v.*
California Legislature (1998) 60 Cal.App.4th 1205, 1216.)

14 As a common law motion, "no specific statute or rule prescribes the grounds or procedure of
15 the motion." (*People v. \$20,000 U.S. Currency* (1991) 235 Cal.App.3d 682, 689.) In ruling on a
16 common law motion for judgment on the pleadings made by a defendant, a trial court determines
17 what has been called a pure question of law. (*Donohue v. State of California* (1986) 178 Cal.App.3d
18 795, 802. In so doing, the trial court generally confines itself to the complaint and accepts as true all
19 material facts alleged therein. (E.g., *Colberg, Inc. v. State of California ex rel. Dept. Pub. Wks.*
20 (1967) 67 Cal.2d 408, 412.) The trial court performs essentially the same task that it would
21 undertake in ruling on a general demurrer. A common law motion for judgment on the pleadings
22 "ha[s] the purpose and effect of a general demurrer." (*Smiley v. Citibank (S.D.), N.A.* (1995) 11
23 Cal.4th 138, 146.) "The trial court accepts as true all material facts properly pleaded but does not
24 consider conclusions of law or fact, opinions, speculation, or allegations contrary to law or facts
25 which are judicially noticed." (*Coshov v. City of Escondido* (2005) 132 Cal.App.4th 687, 702.)

26 IV. ARGUMENT

27 The Public Water Purveyors are political subdivisions of the State, and as such, they are
28 themselves the sovereign. Their powers are limited to those expressly conferred by statute and their

1 conduct is constrained by both the Federal and State Constitutions. The Public Water Purveyors
2 assert that their actions need not be, and in fact cannot be, scrutinized any differently than if they
3 were themselves a private citizen. That is not the law and should not be the law as to the prescriptive
4 claims.

5 **A. *A Public Entity Cannot Constitutionally Acquire and Commit to Public Use Private***
6 ***Property Without First Paying Just Compensation.***

7 Private rights and private responsibilities devolve from the common law. However, those
8 who exercise the powers of the sovereign do so with the consent of the governed. Under our system
9 and as between our three branches of government, the independent judiciary is the guardian of that
10 compact. When the government acts against the property rights of a private citizen, there is not a
11 congruence between public and private rights and responsibilities. The Public Water Purveyors'
12 acts and claims of title acquired by prescription must be scrutinized through the prism of the
13 California State Constitution.¹

14 Under the Federal and the California State Constitution public entities are invested with the
15 power of Eminent Domain: the power to take private property and commit it to a public use. Unlike
16 the Federal Takings Clause, the California State Constitution is both temporally conditioned and
17 specific and procedurally limiting.

18 "While the federal Constitution does not expressly state when compensation is to be
19 paid with respect to a taking, California's constitution does: 'Private property may be
20 taken or damaged for public use only when just compensation, ascertained by a jury
21 unless waived, has *first* been paid to, or into court for, the owner.' (Cal. Const., art. I,
22 § 19, *italics added*.) To this general rule requiring payment in advance, the
23 Constitution permits one exception: 'The Legislature may provide for possession by
24 the condemnor following commencement of eminent domain proceedings upon
25 deposit in court and prompt release to the owner of money determined by the court to
26 be the probable amount of just compensation.' The Legislature has enacted such
27 provisions. (Code Civ. Proc., §1255.010-1255.480.)" (*City of Needles vs. Griswold*
28 (1992) 6 Cal.App.4th 1881, 1892.) [Emphasis added.]

24 The drafters of the California State Constitution were careful in the wording of our State's
25 Taking Clause and worded the clause so that any effective governmental taking of private property

27 ¹ "In such cases the purposes of the constitutional clause, rather than the limits established by a
28 rule of statutory or common law allocating rights and responsibilities between private parties, must fix
the extent of a public entity's responsibility." (*Holtz v. Superior Court* (1970) 3 Cal.3d 296 at p. 302.)

1 for public use is by the express terms of our State Constitution subject to the condition precedent that
2 the governmental entity proceed by an action in eminent domain and first pay just compensation. The
3 California State Constitutional Takings Clause was amended in 1974 by adding the limiting term
4 “only.” In 2008 another amendment to this provision was approved by voters with passage of
5 Proposition 99. The 2008 amendment added the term “and” before the word only. This provision
6 now reads in relevant part as follows:

7 “Section 19. Eminent Domain.

8 ‘Private property may be taken or damaged for public use and only when just
9 compensation ascertained by a jury unless waived, has first been paid to, or into court
10 for, the owner. The legislature may provide for possession by the condemner
11 following commencement of eminent domain proceedings upon deposit in court and
12 prompt release to the owner of money determined by the court to be amount of just
13 compensation.’” [Emphasis added.] Cal. Constitution, Article I, § 19.

12 We are not aware of any reported decision expressly addressing the import of the inclusion of
13 the term “only” in 1974 or the inclusion of the term “and” in 2008. The citation to *City of Needles*,
14 *supra*, is controlling.

15 The California Code of Civil Procedure § 1858, provides the following rules of construction:

16 “In the construction of a statute or instrument, the office of the judge is simply to
17 ascertain and declare what is in terms or in substance contained therein, not to insert
18 what has been omitted, or to omit what has been inserted; and where there are several
19 provisions or particulars, such a construction is, if possible, to be adopted as will give
20 effect to all.”

19 The same rules of construction apply whether the court is construing a statutory or
20 constitutional provision.

21
22 “Under California law, the rules of statutory construction are the same whether
23 applied to the California Constitution or a statutory provision, *Winchester v. Mabury*,
24 122 Cal. 522, 527, 55 P. 393 (1898), and interpretation of these provisions is a
25 question of law for the courts. *Culligan Water Conditioning v. State Bd. of*
26 *Equalization*, 17 Cal. 3d 86, 93, 130 Cal. Rptr. 321, 550 P.2d 593 (1976). If the clear
27 and unambiguous language can resolve a question of statutory interpretation,
28 California law requires the court look no further to search for legislative intent. See
Delaney v. Superior Court, 50 Cal. 3d 785, 798, 268 Cal. Rptr. 753, 789 P.2d 934
(1990); see also *Brown v. Kelly Broadcasting Co.*, 48 Cal. 3d 711, 724, 257 Cal. Rptr.
708, 771 P.2d 406 (1989). The words of the statute are given ‘their usual and
ordinary meaning,’ *Lennane v. Franchise Tax Bd.*, 9 Cal. 4th 263, 268, 885 P.2d 976
(1994). Additionally, ‘words must be construed in context, and statutes must be
harmonized, both internally and with each other, to the extent possible.’ *Woods v.*

1 *Young*, 53 Cal. 3d 315, 323, 279 Cal.Rptr. 613, 807 P.2d 455 (1991). ‘Interpretations
2 that lead to absurd results or render words surplusage are to be avoided.’ Id.” (*In re*
3 *County of Orange v. Fuji Securities, Inc.* (1998) 31 F. Supp. 2d 768, 774.)

4 A governmental entity is constrained by its enabling legislation and limited to those powers
5 expressly granted or necessarily implied from those granted. No Public Water Purveyor has by
6 legislation been expressly authorized to acquire private property for public use through a claim of
7 prescription.² That power cannot arise from a necessary implication which violates an express
8 constitutional limitation. (*John R. Byers v. Board of Supervisors of San Bernardino County* (1968)
9 262 Cal.App.2d 148.) There exist no legislative authorization for any Purveyor to acquire property
10 by a claim of prescription. Thus, the Public Water Purveyors claim to have acquired water rights in
11 the Basin by prescription would be a direct violation of the Takings Clause of the California State
12 Constitution.

13 Furthermore, the California Supreme Court held that in determining the extent of a
14 municipalities power "[a]ny reasonable doubt concerning the existence of power is resolved by the
15 courts against the municipality." (*Von Schmidt v. Wildber* (1894) 105 Cal. 151-157, 159) Article 1
16 section 19 makes clear that the only way a governmental entity can acquire private property without
17 consent for public use is by paying just compensation. Even if the court found that this constitutional
18 provision left doubt as to whether the governmental entities could acquire groundwater rights by
19 prescription, that doubt must be construed against the municipality and not the landowners.

20 In discussing whether a public irrigation district had any rights to the water flowing in a
21 stream, the California Supreme Court in *Fall River Valley Irrigation Dist. v. Mt. Shasta Power*
22 *Corp.*(1927) 202 Cal.56, quoted the United States Supreme Court as follows:

23 ///

24 ² Both the mode and the measure of the lawful power of many of the purveyors to acquire title
25 to real property is expressly provided for and thus limited in California Water Code § 55370 which
26 states:

27 “Section 55370 title to property

28 A district may acquire property by purchase, gift, devise, exchange, descent, and eminent
domain. The title to all property which may have been acquired for a district shall be
vested in the district.”

1 "In the case of *Reagan v. Farmers Loan & Trust Co.*, 154 U.S. 362, 399 [38 L. Ed.
2 1031, 14 Sup. Ct. Rep. 1047, 1055, see, also, Rose's U. S. Notes], the court said: 'In
3 every constitution is the guarantee against the taking of private property for public
4 purposes without just compensation. The equal protection of the laws which, by the
5 Fourteenth Amendment, no State can deny to the individual, forbids legislation, in
6 whatever form it may be enacted, by which the property of one individual is, without
7 compensation, wrested from him for the benefit of another, or of the public. This, as
8 has been often observed, is a government of law, and not a government of men, and it
9 must never be forgotten that under such a government, with its constitutional
10 limitations and guaranties, the forms of law and the machinery of government, with
11 all their reach and power, must in their actual workings stop on the hither side of the
12 unnecessary and uncompensated taking or destruction of any private property, legally
13 acquired and legally held.'" (*Fall River, supra* at p. 68.)

14 The California Supreme Court went on to confirm;

15 "Public policy is at best a vague and uncertain guide, and no consideration of policy
16 can justify the taking of private property without compensation. If the higher interests
17 of the public should be thought to require that the water usually flowing in streams of
18 this state should be subject to appropriation in ways that will deprive the riparian
19 proprietor of its benefit, the change sought must be accomplished by the use of the
20 power of eminent domain." [Emphasis added.] (*Fall River, supra*, at 66.) *Quoting,*
21 *Miller & Lux v. Madera Canal & Irrigation Co.*(1909) 155 Cal. 59, 65.)

22 The *Fall River* court held that the public irrigation district was not entitled to the water in
23 the stream because the defendant power company had the riparian rights to the use of the water and
24 the Irrigation district did not use its power of eminent domain to take the Defendant's water rights.
25 (*Id.* at 58.)

26 In *Jacobsen v. Superior Court* (1923) 192 Cal. 319, the California Supreme Court
27 considered a landowner's application for a writ of prohibition, foreclosing the Sonoma County
28 Superior Court from enforcing an injunction compelling the landowner to permit a water district to
29 enter upon the landowner's property for the purpose of making excavations, borings, and subsoil
30 examinations claimed to have been necessary to determine whether or not the landowner's property
31 was a suitable site for the construction of a dam. When the landowner refused to grant permission
32 to the district for entry and the destructive testing desired, the district filed suit seeking declaratory
33 and injunctive relief, but did not then initiate eminent domain proceedings as against the landowner.
34 The California Supreme Court granted the writ of prohibition and relied upon the then Takings
35 Clause, then Article I, section 14, and concluded:

36 ///

37 ///

1 "The petitioners herein are the sole owners of each of their respective properties and
2 as such hold their rights to be protected in the exclusive enjoyment of every portion
3 thereof under the express guaranty of both the state and federal constitutions, which
4 declare that "no person shall be deprived of life, liberty or property without due
5 process of law." (Const., sec. 13, art. I; U. S. Const., art. V, Amendments.) These
6 constitutional guaranties are among the most sacred inheritances of the American
7 people, derived as they are from those earlier English constitutions going back to
8 Magna Carta and being reaffirmed in those succeeding petitions, declarations, and
9 bills of right which form the fundamental background of the British constitution.
10 These rights which the petitioners herein thus had to the undisturbed possession and
11 use of their respective holdings, they held, of course, subject to the superior right of
12 eminent domain existing in the state or its representatives to take their property, or so
13 much thereof as was necessary for public uses. This public right, however, has always
14 and everywhere been limited and safeguarded by express provisions of the
15 constitutions and statutes of the several states and it has been uniformly held that
16 being *in invitum* and in derogation of the common right, its exercise is strictly defined
17 and limited by the express terms of the constitution or statute creating it." (*Jacobsen*
18 *v. Superior Court* (1923) 192 Cal. 391 at pp. 324 and 325.)

19 . . .

20 "The Petaluma Municipal Water District is a public corporation organized solely to
21 serve a public use. The only purpose for which it can acquire, hold, and use property
22 is for such public use. The only means by which it can acquire such property without
23 the owner's consent is through the exercise of the right of eminent domain. The only
24 legal procedure provided by the constitution and statutes of this state for the taking of
25 private property for a public use is that of a condemnation suit which the constitution
26 expressly provides must first be brought before private property can be taken or
27 damaged for a public use. (Const., art. I, sec. 14.) [Emphasis Added.] (*Jacobsen v.*
28 *Superior Court* (1923) 192 Cal. 319, 331.)

29 In *Jacobsen*, the California Supreme Court could not have been clearer. The only way a
30 government entity can acquire private property rights without consent is by eminent domain
31 proceedings and payment of just compensation. Here, the Public Water Purveyors are attempting by
32 a request for declaratory relief to take the landowners property rights within the area of adjudication
33 without paying any compensation. That position is directly in conflict with case law and the express
34 limitations of now Article I § 19.

35 There is no support for the Public Water Purveyors' proposition that as governmental entities
36 they can acquire water rights by prescription. If a governmental entity desires to take private property
37 without the consent of the owners, the only way they may do so is by the use of their eminent domain
38 powers and thereby payment of just compensation.

39 ///

40 ///

41 ///

1 **B. *California Water Service Company is a Public Utility Invested With the Power of***
2 ***Eminent Domain and as Such Its Powers are Limited by the California***
3 ***Constitution.***

4 California Water Service Company is a public utility as defined in Cal Pub Util Code § 216
5 which provides in part:

6 (a) "Public utility" includes every common carrier, toll bridge corporation, pipeline
7 corporation, gas corporation, electrical corporation, telephone corporation, telegraph
8 corporation, water corporation, sewer system corporation, and heat corporation, where
9 the service is performed for, or the commodity is delivered to, the public or any
10 portion thereof.

11 (b) Whenever any common carrier, toll bridge corporation, pipeline corporation, gas
12 corporation, electrical corporation, telephone corporation, telegraph corporation,
13 water corporation, sewer system corporation, or heat corporation performs a service
14 for, or delivers a commodity to, the public or any portion thereof for which any
15 compensation or payment whatsoever is received, that common carrier, toll bridge
16 corporation, pipeline corporation, gas corporation, electrical corporation, telephone
17 corporation, telegraph corporation, water corporation, sewer system corporation, or
18 heat corporation, is a public utility subject to the jurisdiction, control, and regulation
19 of the commission and the provisions of this part. [Emphasis added].

20 Section 216 applies to California Water Service Company because the First Cross-Complaint
21 states that "California Water Service Company is a California corporation which extracts
22 groundwater from the Basin to serve customers within the Basin." (First Amended Cross-Complaint
23 ¶ 2.) Thus, California Water Service Company is in the business of delivering water to the public for
24 compensation. California Water Service Company likewise possesses the power of eminent domain.
25 (See Public Utilities Code section 618.)

26 In *Gay Law Students Ass'n v. Pac. Tel. & Tel. Co.* (1979), 24 Cal.3d 458, the California
27 Supreme Court discussed in length whether a public utility company is to be treated like a
28 governmental entity, and if it is whether it is limited by the California State Constitution. The court
29 held that the public utility company, PT&T, was bound by the equal protection clause in the
30 California constitution because of its quasi-governmental status. (*Id.* at 469.) The court reasoned
31 that:

32 " In California a public utility is in many respects more akin to a governmental entity
33 than to a purely private employer. In this state, the breadth and depth of governmental
34 regulation of a public utility's business practices inextricably ties the state to a public
35 utility's conduct, both in the public's perception and in the utility's day-to-day
36 activities. (See generally Cal. Const., art. XII, §§ 1-9; Pub. Util. Code, *passim*.)
37 Moreover, the nature of the California regulatory scheme demonstrates that the state
38 generally expects a public utility to conduct its affairs more like a governmental entity

1 than like a private corporation. Both the prices which a utility charges for its products
2 or services and the standards which govern its facilities and services are established
3 by the state (Pub. Util. Code, §§ 728, 761); in addition, the state determines the
4 system and form of the accounts and records which a public utility maintains and it
5 exercises special scrutiny over a utility's issuance of stocks and bonds. (Id., §§ 792,
6 816.) Finally, the state had endowed many public utilities, like PT&T, with
7 considerable powers generally enjoyed only by governmental entities, most notably
8 the **power of eminent domain**. (Id., §§ 610-624.) Under these circumstances, we
9 believe that the state cannot avoid responsibility for a utility's systematic business
10 practices and that a public utility may not properly claim prerogatives of 'private
11 autonomy' that may possibly attach to a purely private business enterprise. Id." [Emphasis added].

12 It is clear that California Water Service Company is a public utility, and following the
13 reasoning in *Gay Law Students Association*, this means that it is bound by the California State
14 Constitution because of its quasi-governmental nature. Therefore, California Water Service
15 Company cannot escape Constitutional scrutiny of its actions by simply claiming it is a for profit
16 private company. It is likewise limited by Article I, § 19.

17 V. CONCLUSION

18 The Public Water Purveyors' Cross-Complaint seeks to establish prescriptive water rights in
19 the Cross-Defendants' property. This claim is constitutionally barred by the California Constitution
20 Article I, section 19 and goes against the authority of decades of case law. Based on the foregoing,
21 this Motion must be granted without leave to amend.

22 Dated: September 20, 2013

LeBEAU • THELEN, LLP

23 By: 

BOB H. JOYCE

Attorneys for Cross- Defendants DIAMOND
FARMING COMPANY, a California
corporation, CRYSTAL ORGANIC FARMS, a
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COMPANY, LLC

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PROOF OF SERVICE

ANTELOPE VALLEY GROUNDWATER CASES
JUDICIAL COUNCIL PROCEEDING NO. 4408
CASE NO.: 1-05-CV-049053

I am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within action; my business address is: 5001 E. Commercenter Drive, Suite 300, Bakersfield, California 93309. On September 20, 2013, I served the within **NOTICE OF MOTION AND MOTION FOR JUDGMENT ON THE PLEADINGS**

☒ **(BY POSTING)** I am "readily familiar" with the Court's Clarification Order. Electronic service and electronic posting completed through www.scefiling.org ; All papers filed in Los Angeles County Superior Court and copy sent to trial judge and Chair of Judicial Council.

Los Angeles County Superior Court
111 North Hill Street
Los Angeles, CA 90012
Attn: **Department 1**
(213) 893-1014

Chair, Judicial Council of California
Administrative Office of the Courts
Attn: Appellate & Trial Court Judicial Services
(Civil Case Coordinator)
Carlotta Tillman
455 Golden Gate Avenue
San Francisco, CA 94102-3688
Fax (415) 865-4315

☐ **(BY MAIL)** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Bakersfield, California, in the ordinary course of business.

☒ **(STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct, and that the foregoing was executed on September 20, 2013, in Bakersfield, California.


LEQUETTA HANSEN